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By Fed Ex Delivery Person with tracking number and receipt.

Office of the Secretary
Federal Trade Commission
Room 159
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Public Comment

Re: 16 CFR Part 310 -- Telemarketing Rule For Franchising and Proposed Rule On Immediate Full Disclosure With Return Email, Fax or Direct Mail Brochure To Potential Franchise Consumer.

Dear Sirs, FTC staff and readers,

Before I start my letter, I hereby demand that this letter appear unedited in the permanent record at the Federal Trade Commission on these public comments on this potential rule making. I am very concerned and have lost trust in any government agency that would attack American Business to further promote their personal and administrative power at a time when we are trying to revitalize our economy.

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Hello FTC and fellow listeners. My name is Lance Winslow, I own the WashGuy Systems. We are in the business of franchising mobile washing units that wash cars, trucks, boats, aircraft, awnings, shopping carts, concrete, houses, railcars, buildings, etc. We are the best in the world at what we do. I have been in this business over 25 years. I have written all my own disclosure documents and they are better than two-thirds of all the documents I have ever seen. I am a co-author of "Franchising 101," a project with the SBDC. We operate our business in 21 states. I have been attacked previously by the FTC. I was a board of director on the American Association of Franchisees and Dealers, the only franchisor to be willing to take that risk to help bring this industry together. I own www.franchising.org and at one time it was receiving in excess of 1 million hits per month. I am a Futurist. I own 100% of my company. I work harder and more hours and understand my business and all its idiosyncrasies better than anyone else reading this letter knows their business. For more about who we are and what we are doing go to: www.carwashguys.com .

I dare to speak up, because I am passionately concerned for America, small business, franchising and the pending economic recovery. Last time I spoke about upcoming rule changes, my business was attacked by the FTC not more than a year afterwards. I accept this as the way our FTC conducts itself against the businesses it regulates and how that regulation hurts the very consumer they claim to protect. I am fully prepared to fight back for however long it takes so help me god. I promise I will be in this business until I am 80 years of age and since I am 37 now, that will probably be longer than anyone else reading this letter as of date submitted.

I will begin discussing the listed topics in the order presented and how each one of these relates with this current proposal for rule changes.

1.) Franchise Buyers Lying On Forms.

I would like to discuss the fact that many **franchise buyers who have 2.2 kids, credit card and short term debt in excess of 150% of annual earnings, college degree, BMW, Mini-Van, will claim on application forms that they have excellent credit and cash in the bank in excess of the amount needed to start the franchise. Over 70% of the**

applicants who claim this cannot even get an additional credit card or buy a car without 0/0 financing option currently available. Yet they often say they have “X” amount of cash available when really they have nothing and many are about to lose their jobs, through downsizing, right sizing or their current employer filing for bankruptcy. You know the companies I am talking about, Enron, Kmart, Global Crossing, Nissan filing bankruptcy and Sprint, Delphi, Ford, Boeing etc. laying off tens of thousands. Every day another one bites the dust. These people are not alone and are a cross section of the current American family in America.

Without placing judgment on the falsehoods and giving them the benefit of the doubt, maybe they just do not realize that if they lose their jobs they will be out of money and pushing a Home Depot shopping cart with their remaining worldly possessions within 2.4 - 2.6 months. Many may not realize that the credit rating required for a small business of their own, franchise or otherwise, is higher than that required when buying a car with no money down. They equate their recent purchase of a car with zero down or a home with 2.5% down as having excellent credit. Even the SBA lenders will require 15% minimum and usually 25% and banks are a little sketchy right now on any new business. True franchises less than other businesses, but they are a little tough right now. Jeez, you would think it was their money, they are mere bankers. The bankers run potential franchise buyers around, they give franchise buyers answers like “The board will be meeting next week” or “Can you give us more collateral.” Why? They already have 20% of it guaranteed by the government in the case of an SBA Loan and the entire business is on the hook including all assets of the newly formed company.

Many inquiring franchise buyers often state on an application form when asked how they will pay for this business; “with a small business loan.” I cannot offer a franchise to someone with no money. That is a sure failure being undercapitalized in any business, franchise or independent. Therefore I do not offer the franchise because they do not meet our criteria. If they secure financing and can prove it then they qualify and then we can offer them a franchise. By giving them a UFOC we are in essence offering them a franchise. Our franchises are only available to people who are reality based and tell the truth. We cannot allow someone in our system who constantly exaggerates, lies or inflates his or her current net worth, borrowing ability, earnings or assets. Just like you cannot hire someone who lies on their resume, makes up degrees earned in college or accomplishments at the FTC, or do you? Remember in franchising, we are stuck with the franchisee for the remainder of the contract once signed and most franchises have automatic renewals for up to 20 years. If we get a bad apple in our system it hurts all the other franchisees and our brand name which in turn hurts all the previous buyers (consumers) into the system in sales, ROI, and amount they make if they transfer their franchise to a new buyer. We must protect those current franchisees who have been forthright and are team players as much as the rights of new buyers. The public (consumer) is not the innocent dupe that the FTC makes them out to be.

I recently talked to an **NASD regulator who said that 75% of the complaints filed were frivolous, bogus or someone not wanting to take responsibility for their actions.** Wow, 75%, that is high wouldn't you say? Is the FTC acting upon real complaints to

come up with these new proposed rules? Or are the complaints you base your needs to make the rule simply 75% bogus. Are the 80% bogus, 85% or maybe only 70%. If the problem is really only 30% real or 15% real, then is that a significant reason for making a rule? No, obviously it is not. You are letting bogus complaints get the best of you at the FTC, just like you are wanting bogus inquiries to get the best of franchisors. The real crime against the consumer will be the switch in attitude towards consumers by franchisors, one which will be based on reality and therefore justified if this rule is imposed. Franchisor's are protecting themselves from bogus leads or fake franchise buyers. They therefore have put up a wall to protect themselves, it is called the screening process. It is justified and in place for a reason, to protect the integrity of their systems and the current franchisees (also consumers) who have already purchased and would like to make some money in this recession. The franchisees if this rule is enacted should be able to opt out of being listed on the UFOC for reasons of their right to privacy.

We cannot and should not make the UFOC available until which time we can verify all information given to us by the potential buyer. Remember I stated that 70% of all buyers exaggerate their financial situation. This is well known by franchisors as well as other sectors of our economy such as realtors, car dealerships and financial planners. One recent book I read put out by a major mutual fund company stated the number at 78%. Is it outright misrepresentation or is it more not understanding the reality of the banking system, cost of living, cash flow, or debt service on their own credit cards? Hard to say, but I guarantee you it is real. And it is a real problem with assisting new franchise team members in realizing their American Dream of owning their own business. These are some of the problems associated with franchisees and their financial capacity.

Other problems occur when potential franchise buyers do not fill out the entire form and leave sections out. A person who cannot follow the rules cannot join our team and most franchisors should ask very direct questions of the franchise buyer before moving on if this occurs. Sometimes it is simply a matter of the franchise buyer being scared of identity theft due to all the TV news segments on the subject even the FTC goes over board with these claims of possible "identity theft" to justify their worthiness to consumers and next years budget. Other times the potential franchise buyers are really hiding something. Sometimes franchise buyers will not tell you they are going through a divorce and they are buying the franchise to be self-employed to hide income from their former mate to save on alimony. We have received several of these from people who admit it, wonder how many did not tell us their objectives in owning their own business? We have even had franchise buyers lie about their hobbies. Why would they do that? Are they so worried of what others think of them? Unfortunately, yes. People will drive expensive cars when they are broke and it appears that this problem permeates our society, we know that we wash their cars, until which time they refuse to make good on the bounced checks. People, real people, real Americans and even the all mighty and glorious consumers lie about stupid things and in franchising you cannot help or suggest things to a franchisee team member who lies and still give good advice. Franchisors need franchisees to do well, and we owe it to the rest of the franchise team to only take on the best franchisees and that takes quite a bit of due diligence on our part. Until that process is complete we cannot offer the franchise to the potential franchise buyer. Our franchise system like many others only offers our franchisees

to qualified franchise buyers. We do not offer our franchise to just anyone who has the money and surely not to anyone who does not. Just like an employer must screen applicants, so must a franchisor. And while I am at it, may I ask the FTC what a consumer who cannot balance their check book and doesn't even read their credit card statements for accuracy is going to do with a UFOC it's attachments, for a franchise they are not even sure if they are interested in yet? Are they going to read it? All of it? And if they think they may possibly be interested in 10 different franchises are they going to read all ten? Are they going to read five, two, one? Probably none. This proposed rule helps, neither the consumer, purported consumer, the franchisor or it's current franchisees. And it will add inbound complaints to the FTC, which I will later discuss.

We had a potential franchise buyer wish to buy a franchise in Peachtree, GA. He filled out our form and said he would seek a small business loan and we discussed what it would take to put in a fixed site carwash. He would not reveal how much money he had available. He said he had excellent credit and had just purchased a new house. We instructed him to look into a business loan and if he could come up with the required capitalization we would proceed. Turns out the guy asked for a 1.6 million dollar loan and found out he needed 20% down, called us back and said he just did not have that level of funding. He of course needed \$320,000. As it turns out after several hours of discussion that he did not even qualify to buy our mobile franchise unit and could not come up with \$6,000 in real money. He worked for Motorola at the time. He probably has been laid off with the last wave of 20,000 people. The big problem here is how he dodged the question and never revealed he had no money, which would mean he did not qualify. He knew exactly what it would cost before he filled out any forms or even contacted us. He lied or assumed he could easily get financing for a small business. He assumed also since he was black, which he later revealed that the SBA could give him a grant. Now that would be cool, I wonder how many franchises we could put in if that were the case? Of course he did not alert us to the fact that he was going to try to go out and get the money for free. If that were the case we would also not have been interested because he could simply walk away from the franchise later at any time without losing any money and we would have burned territory and lost brand name reputation in the high end neighborhood of Peach Tree, GA. If we disclosed this individual after the few phone calls we had with him, he would have received in fact an offer to buy our franchise from us. Yet once the facts were known we would never offer him a franchise. He couldn't have bought a franchise anyway. With less than \$6,000.00 in cash he is not even in the ball park.

We recently had a nice lady out of Brentwood, TN fill out our online form of interest in our franchise. When I called her back to discuss this, she said "What is the name of your company again, I went to so many web sites?" Well, this is interesting. She went to how many web sites and filled out how many forms generating time and work for every franchisor she went to. I almost hung up since she was obviously a looky lou, but I did not wish to be rude. After talking for a while it became very apparent that this individual was in the Image Consulting Business and wanted to sell us some type of services. After listening to her for quite a while about all her great credentials about her Image Business, I realized this lady was not interested in a franchise at all. She of course had a cover story for her inquiry. It went like this; "My son is working for someone else and my husband is

a Podiatrist and I have PhD in Image Psychology, and we want to set up our son in his own business. He does not have a college degree. I do not think this type of business is the type I would want him to do.” The story seemed questionable since I was talking to her instead of her son. She did not know what her son would want in a franchise and wanted to continue to rule his life. Obviously a story to get me or someone who works for me to listen to her sales pitch. She had clearly misrepresented herself in her telemarketing sales ploy. Does this person deserve a UFOC of 155 pages and the \$3.50 to express mail it?

On to finish this story. We already have a franchisee in Brentwood TN, who last year indicated he may be willing to sell part of his franchise. I told the lady she should call the franchisee and deal directly with him in a transfer, but that she would have to have herself, if she would be a 5% or more owner, and her son fill out our application form before we could allow a transfer. I gave her the name of the franchisee in Brentwood TN, the phone numbers and indicated that she and her son should contact him and ask to ride on the truck for a day to see if it was what her son would like. Also she would need to talk to the transferring franchisee as to price and other consideration. I should not send a UFOC until I know the franchisee is interested in selling, because otherwise I am offering to sell a franchise in an exclusive territory, which has already been sold. In this type of situation this proposed rule really has a problem.

Recently I had a potential buyer fill out our questionnaire and where it asks “How will you pay for this franchise they listed “Family members and personal savings.” When talking with them on the phone he confessed to me that his brother was rich and that he could secure all the money necessary to buy two areas (franchises) and multiple units. Great, then we are interested since the person appeared on the application to be a great person, which in our franchise is a criteria. This unfortunately is getting harder and harder to find the average person you meet. I asked the potential buyer if his brother was going to have an ownership of the company. He said no, it would just be a loan. We then proceeded, disclosed the individual only to find out his brother was not liquid and could possibly only lend \$15,000 by using credit card checks as cash and wanted a 40% share of the company. Okay we can do a smaller single unit franchise we thought, since the rest he could get in a loan through our vendor from GMAC or GE Capital for the equipment. Of course the brother would now need to qualify too, and together they would be able to make the deal and start their new business. The brother would not sign the application form and we could not verify his information, so we withdrew the offer, but the potential buyer said you cannot withdraw the offer you said; “I can buy your franchise and you sent me the offer to sell me a franchise and the agreement and I sent you back a receipt of receiving this offer and I am going to buy this franchise,” His rational was that we had offered to sell him a franchise and on his application he said he could get money from family members and he still had five more siblings and he would not give up until he got the money.

I wonder how many UFOCs I will send out to all these siblings, if your rule is adopted, who decide to call up or ask a question about the business, knowing they will not buy into the franchise but act just to appease their brother. And it occurred to me when discussing this issue with some team members, well he may have a hundred relatives and almost everyone has parents and some of us still have grandparents hanging around watching us

on the sidelines as we go through life. This buyer is really serious and determined and he said he would never give up, but if I have to send a UFOC to every single friend or relative who promises to look into it, I as a franchisor am not interested in selling him a franchise. Meanwhile how many times will I revise my franchise the UFOC until he finally finds the money under a rock in the back yard? He said "God will help me find a way." Oh Great! And maybe he will, but who is going to pay me for the 50+ UFOCs I have to send out every time he finds someone with a pulse who is willing to send me an email? And as the business relationship studies and articles show in HBR (Harvard Business Review), Fast Company, Fortune Small Business, Darwin, Entrepreneur, Business 2.0, E-Business, Small Business Computing, MIT's Technology Review, Red Herring and CIO it is important for proper CRM (Customer Response Management) to reply to emails with in 24 hours. With this proposed rule simple business etiquette and norms would require disclosure to anyone who asked a question that we answered by any form; email, fax or direct mail? Whether or not we were simply trying to nicely answer a question or thought there was potential with that individual. Forcing franchisor's to be careful in discussions, tentative in information discussed and hostile to simple questions asked by consumers if pressed. And the consumers will press, because they want answers to their questions, they are impatient and demand a direct answer and not the run around. If a franchisor answers, he has to send this phone caller, e-mailer an entire UFOC? Hmmm? Are we sure we should stay in the franchising industry and give all of our information to anyone while working hard to stay within all the current regulations and still provide the American Dream to everyone else?

We have many students ask us for information, they do not understand how to ask for the information they need, so they pretend to be franchise buyers. After calling back these inquiries I have learned that many students say "I am interested in buying a franchise when I get out of school in two years." Well great, I say, call me in two years, by then my franchise agreement will have 44 revisions (that is what we would average in two years at our current rate with all the FTC proposed rule changes and with all the new case law). They say; "well can I ask you about your company?" The answer to that question if this rule is adopted by the FTC will now be "NO!!!, you cannot ask me anything, I cannot talk to you, do not call me back, do not email, do not request information by fax, stay off our web site, go to hell, tell your instructor to stop making these assignments and basically FO (&@#%!)." Is that what the FTC wants me to tell students who call up doing class projects? Because that is exactly what I told some students at North Arizona University in Flagstaff, AZ and put in an email to a professor out of Chicago this week. Students are not consumers, not potential franchise buyers and do not fit into the FTC's current or proposed telemarketing rules.

I thought I would get a jump on complying with your future rules. They were very upset about that response and if this rule is adopted they had better get use to it. I am not going to send out a UFOC to every college student in the country doing a project. If they want to be truthful, I can send them a brochure or discuss the business model with them. But many just want information for class projects. They can petition a registration state for the information through the freedom of information act and pay them to get it, I will not send them out for free, nor if this rule is imposed discuss anything with them, which would be construed as information about buying a franchise. I suppose a mobile car wash franchise

is intriguing to college students since it is unique so perhaps I get more than my fair share of students looking for information. Currently it is running at about 2-4% depending on the time of year of all franchise inquiries. This equates to \$1,144.00 to \$2,288.00 (2 - 4 students per week X's 52 weeks X's \$11.00 for printing and mailing) if your rule is adopted and we send all of them a UFOC and the attachments. I love helping the students learn about franchising, but I have an obligation to my franchise system to spend money on things that would more directly help their bottom line, expand our franchise system, creating jobs, and secure market share through excellence in customer service. Even worse once you start sending these away to anyone and everyone knows they can get them, if entire classes of MBA students send of information, you could have 50 - 100 UFOCs requested by simple email. Costs: \$550.00-\$1,100.00, every time word gets out that your are sending out documents.

Apparently the FTC thinks that all Big Bad franchisors have tons of money to throw around. Have they looked at the state of franchising lately? Jiffy Lube's largest franchisee with 198 franchises was de-listed, a very large Denny's franchisee with 50+ locations in Florida filed for bankruptcy, Blimpie's entire franchise system sold for peanuts, Ziebart losing 40% of their franchisees in three years. Every dollar counts. We should not be forced to send out UFOCs to college students who obviously have fake and bogus stories about being potential franchise buyers. Sending these people UFOCs is bad fiscal management. We especially should not send them out to those who lie in phone calls and emails to get what they are looking for, this sets bad precedence and teaches these future MBA executives how to use dishonesty for personal gain and it fosters the next set of Enron and Arthur Andersen type business people. Just think you are forcing franchisors to stop talking to students, then who will run the franchises in the future? The problem with arbitrary rule making by bureaucrats is that they have no clue as to how the real world works and how everything is interconnected. Every rule you make for a positive reason has a negative effects on everything else. Since no one brought up this student issue, I thought I would share this with you. Why doesn't the FTC educate the students on their budget instead of using money to make more rules, and then forcing me to? That would solve many more problems than these perceived problems of possible potential franchise buyers not receiving the UFOCs exactly when they want it. Consumers and students want instant gratification and an immediate UFOC, Why? Employing their same logic and frame of reference, they will never read it, they would be too impatient, they will simply go around collecting them. Franchisors are doing a service to a potential franchisee by making them go through the process of filling out an application. A franchise is a structured environment and if a potential student buyer cannot go through such a procedure, how well do you think they will learn in their classes. And on the consumer side, how well will the franchise buyer do once they start such a franchise, where everything is so exacting from the number of olives on every sandwich at Subway to the bathroom cleaning procedures at KinderCare? We have procedures to protect the integrity of the franchise model and to help the consumers and students who may be joining in the franchise industry in the future.

Franchising has procedures, these procedures all have case laws and reasons behind them. Disrupting a system of checks and balances we now have in franchising is the same as the

run away rule making we see taking place at the Justice Department. Their new motto; “We had to kill all businesses in the US to save the consumer who is now starving to death.” Do you really believe that Robert Kennedy would have wanted it that way? (www.camelotforever.com). This is a silly set of rules that does nothing but hurt people. That is not in true Kennedy style, Robert cared about people, and all FTC employees should live in that tradition, you owe it those you serve. Walk the Walk. You should only do things which help the consumer not hurt them.

Just a heads up to all franchisors and potential FTC investigators. When we battled the FTC on a bogus earnings claims case they brought against our company, they (the FTC) had a lady pretending to be a professor from El Paso ask us for a UFOC claiming that she was collecting them for a student library. We did not send it. Interestingly enough, the email from this fake inquiry asking for our documents was enclosed in the declaration attached to the case. Are we certain that the FTC is not just upset that they cannot get the UFOCs of franchisors? Maybe it is not a public concern after all. Maybe the FTC wants to spy on franchisors without further misrepresenting themselves in the process by filling out bogus applications which they know the franchisors will check up on. I want to see all the complaints from real citizens and real consumers and I want to run all their names and see if the FTC really has consumers who feel they were really harmed in the process of buying a franchise. I am not a conspiracy theorist, but have personally witnessed first hand the bogus phone calls of investigators and read bogus emails from people claiming to be buyers. This El Paso Professor inquiry is a perfect example of exactly what I am talking about. Using the educational system to do their dirty work and thus hurting the educational system’s credibility with the very franchisors whom in the future may hire students graduating from their institutions. That is very detrimental to the overall academia and business communities and future relations. I occasionally speak at colleges to students when invited by professors as part of their educational process, with these rule changes I would literally need to hand out a UFOC to every student after the speech if one asked a question about buying a franchise. How can the FTC accuse the Franchisors and say this is an issue when the FTC uses deception and misinformation and encourages complaints over the Internet through its web site, which has over 17,000 links to it? Can you imagine the number of hits coming to that site and the numbers of people that fill out a complaint form? How many of those are legitimate? Same with the inquiries, which come to a franchisor’s web site or through their email system. They are not potential franchisees until they are verified and therefore cannot receive a UFOC or any other information.

Below is the form we use for potential team members. We do not consider them actual franchise buyers until they are qualified. We are looking for great people, and of course they must have the financial resources to buy the franchise, enough cash on hand to use for cash flow in the starting of the business and adequate credit for future expansion to handle customer demand. This can be a problem in our industry since there are so many cars. Most people reading this letter own more than one registered vehicle and most of you need them washed often. This is an incredible responsibility and we need great people. If we disclose a potential buyer we in fact are offering them a franchise at that point. But we cannot offer anything until we can verify that their information is true and correct. We are finding that usually their information is not entirely correct and we need to get to the

bottom of that issue before offering them a franchise. This may take several e-mails, faxing of credit information and proof that the application is true and correct.

We have no choice and we owe it our current franchisee (consumers) team members to only allow the best possible candidates into our system. Sometimes it takes a few phone calls, emails or any number of communications for a potential buyer to trust us enough to give us the information we require to process the application, so there is no way we can do this in the first communication, no matter what type it is. I would rather put the application in the shredder and walk from the deal altogether than to offer a franchise for the company I have been building all my life. Many applicants will fill out the form and skip the social security number or bank account numbers. Well then we cannot process the application and we have to find out how we can get them qualified without this information or decide to walk away. The next page contains the form we use.



TM

The Car Wash Guys

(888) WASH-GUY
FAX (888) WASH-GAL

POTENTIAL TEAM MEMBER PROFILE

Personal Information:

Name _____ Social Security # _____

Address _____ Years There _____

City _____ State _____ Zip _____

Home Phone _____ Work Phone _____

E-Mail Address _____ Education Level _____

Marital Status _____ Spouse's Name _____

Children: Names, Ages _____

Do you currently own a business? (If yes, answer the following questions under "Company Information")

Company Information: *(If own more than one business list each on additional page.)*

Company Name _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

E-Mail Address _____ Tax I. D. # _____

Organizational Type: _____ Corporation _____ LLC _____ Partnership _____ Sole Proprietorship

Bank And Credit Information:

Bank Name _____ Phone _____

Address _____

Checking Account # _____ Credit card # _____

All Information provided in this application is CONFIDENTIAL
Wash Guy. Com, Inc. reserves the right to decline any application for any reason.

POTENTIAL TEAM MEMBER PROFILE

(Please attach additional pages if necessary)

List your community involvement including non-profit groups, religious organizations, volunteer committees and any elected or appointed political positions.

List any magazines or trade journals you subscribe to.

List your favorite books, movies and music and why they are your favorites.

List the type of aircrafts, boats, motorcycles, bikes, airplanes, etc. you own or use and their color.

List any competitive sports or groups you have been involved with including high school, golf, equestrian, bowling, musical, bridge, chess, etc.

List your pets, their type and their name(s).

I declare the information provided here is true and accurate. I release representatives of Wash Guy. Com, Inc. to obtain credit and background information from any of the sources listed in this application. I realize that this information is confidential and will not be sold to any other party.

Signature

Date

We need to know if this person is a real person, if they will fit into our team, if they have the money and if they tell the truth. We cannot offer a franchise until we know these things. It is not right for the FTC to make a franchisor give out a Uniform Offering Circular to a potential buyer who is unqualified to meet the needs of the franchise in spirit, ethics, money or stick-to-it-ness. Many franchise buyers will send in an application listing several jobs in the past year. We find this an issue and need to get to the bottom of this to see if they will stick with their new business. Many times there is a reason for this and other times it just proves that the applicant or candidate lacks dedication, perseverance and commitment all of which are necessary to run a franchise business, or any small business for that matter. Especially now more than ever as larger companies are stringing out small businesses on receivables. It takes a special person to run a business of their own and that includes a franchise. Some people should not be in business for themselves. Many should not be in a business like ours, which is hard work and if an owner operator runs the business it takes a person of certain physical attributes. If we offer and sell a franchise to a person who has not proved they can handle our business, we are doing a disservice to the consumer and worse off to the current franchisees that are also consumers and need protection of their investment. They need a fair and reasonable ROI if they put in real effort and follow the system. By letting the wrong franchisees into the system due to speeding up the process of the sale by disclosing information and offering a franchise too soon, we are jeopardizing our responsibility to the both sets of consumers. The ones already in the system and the ones who will fail if we let them in. The integrity of the system is important to the growth and profits of the consumers who purchase(d).

2.) Consumer Watch Groups And FTC Pretending To Be Franchise Buyers.

We have had consumer watch groups call us and immediately ask us “How much money can I make” usually within the first two sentences after they say “Hi.” We battled the FTC on an earnings claim case a year or so ago, and one of the investigators who preferred to be titled as a ‘prosecutor’ was also involved in several watch dog groups around the country as part of his FTC job, I guess so FTC employees can bill trips to places like Bozeman MT and Yellowstone to the federal government and tax payers. Pretty nifty system for retention of employees. These groups were probably good groups with good intentions who purported to help older people combat telephone fraud, yet he used these groups to call us and pretend to be franchise buyers almost to the point of general harassment. At one point we were getting three to four a week, some starting as early as 6:00 in the morning West Coast time, apparently not following their own proposed telemarketing rules. After a while we could not tell who was real and who was fake. And of course none of these fake callers would ever fill out a form like the one in this letter. One person finally admitted to us that he was not really interested in a franchise, but wanted to see if we were real. Turns out he had even seen one of our franchisees around town washing cars but had never actually used the mobile car wash service at his office, he could have found out we were real by talking to a real live franchisee in his own town, but I guess it is more fun to play the covert operations spy game? It must be very intriguing to study and entrepreneurial franchise company, if that turns you on. Since we settled without penalty, I guess it was their way of getting back at us or trying to catch us doing something wrong. We still get calls from fake buyers from consumer groups since many consumer web sites believe everything the FTC says in their press releases and they copy and paste it to their web sites. We still get about 1 - 2 per week and usually we can pick them out and we play with them a little, when we know they are fake we yell at them using explicatives. I guess

they think they are helping someone out there, but all they have done is made us extremely harsh to real potential buyers who are really are good sincere people, even though those are only 10% of all inquiries. The FTC has no rules that say you have to be nice to potential buyers and no rules that say I cannot swear a my competition.

So who is getting hurt here? Real consumers who have real questions are getting hurt. I suppose we have told a few to go to hell who were real. But remember franchisors who have new and exciting business models tend to get hundreds of leads per week and it is not against the law to hang up on people, you can thank the FTC for attacking good companies. We are not about to send out a UFOC and all the attachments to a person we believe to be a ringer working for or in conjunction with the FTC. If they want one they can send me the \$7.65 it costs to print one and the postage to mail it. A true entrepreneur would never allow such an agency to lie and pretend to be a franchise buyer without exposing this tactic to the entire industry. They are on a witch-hunt, but why? Who does that help, not the consumer. We have been extra tough on franchisees due to this and even terminated franchisees as per the contract that we may have in the past allowed to come into compliance with the given default. You know that “may” word in the incurable default section of all the franchise agreements? Who loses? As a franchisor if we are to run every thing strictly by the book, anything out of the ordinary we look to the contract and enforce it. If that means a consumer loses all their money when we could have worked things out, then tough, thank the FTC. They want more disclosure. No problem, our UFOC is tough as nails and by far the most aggressive I have seen. And since we wrote it, it protects us. Why should we send out a \$7.65 UFOC with a three dollar and fifty cent postage in a \$.50 package every time the FTC or one of their consumer friendly watch groups wants to check us out? Enough already. We should be looking into abuse of power issues because we can prove harassment and we have damages in brand name loss and additional lost time in opportunity. If a person is not real and we suspect it we should not have disclose anything to them. Next subject.

3.) Problems With Terrorism And Immediate Disclosure.

Although not a lot has been talked about on this issue, I have extreme concern over the information that is to be disclosed if it lands in the hands of a terrorist. For instance, our units contain spray rigs, which contain fresh water to wash things with, but in the hands of a terrorist they could be deadly. Required to be included in the disclosure documents is a list of every franchisee and their address. Now, as I see in this potential rule change, you want me to send a UFOC with all this information to someone who sends us an email before we know who they are? Are you nuts? Anyone can send an email, request information, fill out a form on a web site and then we send them this kind of personal information about our franchise members? We have a responsibility to their right to privacy too. They are consumers and why should we be putting them at risk. Many of our franchisees run their businesses out of their homes and therefore their home addresses and phone numbers are listed in the UFOC attachments. How can I be assured that someone sending an email is a real entity. I see email addresses all the time that do not match the names they are purporting. They are suspect. **Am I to call the FBI every time I send a UFOC to an anonymous person who gives me a quick email that says “Hi, I am**

interested in your franchise for washing aircraft out at the airport in Tampa, Florida” with the name of Abdul, Hamid, Abdallah, Rahman, Mohammad? Well, what is your answer? You want to see my emails? I can show you such emails, probably nothing, but do you want to bet on it. No, I did not send out a UFOC, don't worry. But you are saying you want to change a rule that would make me by law go against common sense and my duty as an American? FOR GET IT. Boy the FBI will get tired of all these calls if you adopt this rule, won't they. If I have to send these people or fictitious people out a UFOC as per your proposed rule, I am still going to do my duty to protect my country; the FBI will get a call. Actually isn't that government's number one job as outlined in the Constitution, to protect her citizens. Here I go again do your job for you.

Many of our current franchisees get calls from franchise buyers who have received a UFOC from us. There will now be ten times as many of these calls. The UFOC contains all present franchisee's phone numbers and the potential franchise buyers call them and want to talk. Well many of our franchisees do not want people calling them. They do not want their privacy violated as it is and now the FTC wants to increase this ten fold? Our current franchisees are great hard working families and they should not be subjected to this. Franchise buyers have a myriad of questions that can take hours. Franchise buyers ask lots of questions about the equipment, etc. Why make it easy for a terrorist to call up our franchisees and ask them questions about spray rigs, polypropylene tanks, inline soap injection, mixing of chemicals, spray tips, etc. I do not believe it is a good idea for any of the other large franchisors like ServiceMaster, TruGreen ChemLawn, SparkleWash, Truly Nolen, etc. Without going into detail on every single possible threat, why not pick up an opportunities guide. You can buy one on www.franchising.org and look at all the pest control businesses, car detailing businesses, pool cleaning businesses, plumbing, heating and air conditioning franchises. What about the Lawn Care franchises, all capable of spreading a bio threat. And you want us to send a UFOC to anyone who we send a fax or brochure to, or receive or return an email to without really knowing who they are? If you still do after reading this reason for rejecting your proposed rule change, then you are not a true American. I have already speculated this of many FTC workers, especially now with the pressure for this current proposed rule change.

4.) No Information Available And No Contacts.

A consumer often asks a simple question to a franchisor to decide if that particular franchise might fit into their needs for a small business. Now with such a rule imposed to disclose upon return email, a franchisor has to make an arbitrary judgment call at that point as to whether he wants to send out the UFOC, which will cost \$11.00 or not. If he decides "not to" then the franchisor has to terminate all correspondence with that entity forever and ask the consumer to put the franchisor on the potential franchise buyer's "do not call list" and make it clear to the consumer that they are not interested in selling a franchise to them and to never call the franchisor back, ever. This would be the only way a franchisor would be able to protect himself from the future ramifications and problems of this proposed rule. If the consumer will not take "no" for an answer or feels slighted they are likely to trigger another complaint with the BBB or the FTC or someone. Which is will only serve the

FTC and their future increased budget from tax-payer monies and not the consumer, they claim to protect and serve or the over regulated franchising industry, which accounts for one-third of every consumer dollar spent in America even with all the bureaucracy beating them down.

I would like to discuss the Mutual Fund Companies, whom are allowed to give information on the phone without sending out a prospectus. They can answer questions; they just cannot let an investor buy in until they have the prospectus. Why else would someone even call a mutual fund company, rather than to see if they wanted to invest or ask about rules, load fees or duration penalties or requirements? I believe that is the best way to do it for the consumer/investor and the company. It hurts no one and their industry does not need a rule change either. Mutual Funds now have an abridged prospectus. People friendly version. Why can't the FTC revise the current disclosure documents in franchising to make them shorter and smaller?

Of course if you make a rule in the franchising industry, then you can make another rule and another and another, until you are satisfied on the fifth of never. Total job security, the entrepreneur should have it so easy. If the franchisor responds to the inquiry he has to send out a UFOC, so his answer 50% of the time will be, it is not worth the money to send out or the risk of having it get into competitors hands and therefore will opt out of any disclosure and create exactly what the FTC in this case is trying to prevent. Franchise buyers will become so frustrated that they will try to get the law changed back when they figure out why no franchisor will talk to them. As if it is not frustrating enough for the franchise buyer choosing and starting a business with all the other agencies and rules. You will have instantaneous stoppage of information to consumers and shut out those who do not understand franchising from learning what franchising is all about. Then consumers will simply never get any information at all and will be bared from buying the franchise of their choosing. If a franchisor has set up a way in which they prefer to get inquiries to carefully document the chain of events leading up to a sale for reasons of thoroughness and CYA and the franchise buyer attempts to use other methods of contact such as an email, then with this proposed rule unqualified buyers would be cut off from all information. If the franchisor sent out the information then the same unqualified buyers would be able to purchase a franchise, even if they were not suited for it. Since once they receive an Offering Circular the consumer believes he/she is duly in receipt of an offer to buy. These franchise buyers would most likely fail and that cause more harm to consumers as they would lose all their money in their new business. Is that what the FTC wants? Because, that is exactly what would happen.

Our company no longer sends out mail out packages due to the multiplicity of advertising laws and requirements in the different registration states such as California. Potential franchise buyers ask for mail out packages. We do not have them and therefore do not send them out. Such laws tend to hurt consumers, but it is not worth the time to register such advertising and get it approved. And these proposed rules will be add more adverse CYA protections, from franchisors, which will hurt consumer's information gathering desires. If someone asks us by email; questions pertaining to buying of a franchise, without us being able to verify who they are, we will put them on a black list of names

who cannot buy our franchise. What do you do if someone uses an alias of Joshua Smith? Joshua Smith sent us an email three months ago and would not verify who he was. We did not send information and therefore cannot verify we did not offer him a franchise. The potential buyer can say, I am not the same Joshua Smith. Ah ha, but how would we know, the last Joshua Smith never gave us an address. So I am sorry Mr. Joshua Smith, we cannot sell you a franchise. If we did we could be in violation of this proposed FTC rule for not sending you out the required disclosure last time you inquired because you were not a prospect then. Our company has developed a system for compliance and it includes all leads coming through our web site for documentation purposes to prevent the FTC and other agencies from targeting us as an example and using the publicity for their efforts and future funding from Congress. Similarly we have taken our phone number off our web site forcing buyers to come in a certain way to streamline the process so we can comply with all the crazy rules in franchising. When the FTC attacked our company, they went to a Franchise Attorney meeting where Steve Toporoff (Sp?) stood up and said "We a filing our first Internet Case against a franchisor, called Car Wash Guys". He made that announcement before the case was filed or we knew anything about it and used our company as an example. That is grand standing in every sense of the word. Is this rule making session more of the same? Is it all about headlines? I know this event involving our company took place because Susan Kezios of the AFA was there that day and heard it. Are we going to have more companies become examples of this rule if it is adopted? The FTC loves to grandstand. After all they are getting a lot of PR out of their current efforts to curb child porn, which we all agree should not be allowed and so do most Americans. The only thing that bothers me is we are allowing government case-workers to go to these sites and view these pictures one minute and then the next case in the newspapers could be against a franchisor. Franchisors will be subjected to increased scrutiny if these rules are enacted and then enforced and as I have been discussing it is quite contrary to normal and reasonable business procedure now being used in franchising. Therefore it will take a while to figure out how to comply with these new rules, what if it is not exactly perfect but the new procedures by franchisors to deal with these are not exactly perfect but certainly in spirit? Well, then yours truly and several other small franchisors will be attacked as usual. They never go after the big franchisors because the FTC knows that they will be out fire powered by high-powered attorneys. Many of these high powered attorneys use to work at the FTC but got disgusted or wanted a pay raise and went into private practice and therefore now how to easily beat the FTC. They make a lot of money per hour now and most smaller franchisors do not have the funds available to wage war against the FTC. The FTC knowing this usually attacks the little guy in the franchising business.

The franchising industry needs it's own set of rules, not borrowed ones from the securities industry. Otherwise these proposed rules and the ones which will most likely follow will lead to less information to consumers than more. When some one buys a franchise, they are buying a small business. Actually they are renting it as a job. Yet the franchising laws fall under investment laws. It is not an investment in the true sense of the word, because in most franchises you do not own anything. As a matter of fact when you sell a franchise you are only transferring your rights to operate the rented business to a new party, not selling anything. You cannot sell anything you do not own. It is not like a stock or shares of a mutual fund. It really needs it's own set of guidelines, not those of another industry

that you are trying to make fit, when they do not fit at all. Of course many people and attorneys make their living on these laws so you can't just change them and fix them. You instead are trying to force them into a square hole. The more rules you make the harder it is for franchisors to help franchisees succeed and move fast in the market place when things need to be tweaked a little to keep up with new innovations and technologies in the various market sectors or regional variations to meet changing consumer desires. It appears we are really clouding the issues here with these new rules which have no rhyme or reason, do not help anyone, hurt consumers, cost franchisors money and close communications between potential franchise buyers in search of their American Dream and the only people who can bring it to fruition, us, the franchisors.

5.) Competitors Seeking Information About Companies.

We have done extremely well on the Internet in attracting people who want their car washed. We are well spidered on the search engines for key words such as "Carwash." We therefore get a high number of hits. Many times people who make their living in the market sector of car washing or own carwashes will come to our site after searching the words that categorize their industry. They look through our site and then they find the opportunities page and think to themselves, hmmm? And then fill out the form without revealing they are already in the business. Like Ray Kroc (McDonalds) whose policy was never to sell franchises to those previously in the restaurant business, we will not sell to those in the car wash business. They have ingrained in themselves their way of doing things, which is incompatible with our system and methods. They want to ask us questions thinking they can copy some of our ideas. So they call up, email, and start asking questions. About five minutes into such a conversation we know they are not real franchise buyers. They are too knowledgeable about the industry and they usually slip up in one of their questions or just have to tell us how great they are and how many cars they are washing on busy Saturdays. I am in a really ugly and highly competitive industry, almost as bad as the garbage business before the massive consolidation by Wayne Huizenga. Luckily that comes with intense egos from independents and not a whole lot of smarts, thus it is fairly easy to spot them, but not always some obviously slip through. Those who are rotten people would most likely become good liars too.

Why should I send out a UFOC to a possible competitor when the UFOC they receive could be copied, a few changes made, potentially save them \$35,000 in legal fees and takes away income from a practicing attorney who works their butt off? And believe me they do have to work their butts off, especially with ridiculous proposed rule changes like these. The cost to send disclosure documents out is just about \$11.00 and if the competitors in my industry knew I had to send them out they would have every one of the industry's 19,000 tunnel car wash owners across the country email us and pretend to be buyers. As a matter of fact I would not be surprised if an email began circulating in the industry through virus style email chains and the inquiries all came within a couple of weeks of each other. So what is \$11.00 times 19,000. It is exactly \$209,000.00. I would rather pay an attorney to file a class action lawsuit for our franchisees against the FTC for damages of this obvious abuse of power, and damage to brand name for their previous attacks on our company. Oh

and there are about 25,000 estimated coin-op car washes too. You do the math. The UFOC contains estimated number of projected units and all kinds of information we do not want sent out to these competitors. We are not a public company and until we know who is asking we prefer to keep our information close. By doing so we protect our current franchisee team members (consumers) from the “lose lips sink ships” syndrome. Why add competitive disadvantage in the market place to our team from requests from competitors. We would definitely not want to disclose information to since these people who are independent competitor businesses. I would be doing a disservice and can cause hurtful competition to our franchisees if I divulge information that easily. By enacting this rule to disclose that early in the process and offer a franchise to a non-qualified and potential competitor, our company is put at an extreme competitive disadvantage. Is it government’s job to help destroy franchising and all franchise systems? Yes? Then may I ask, who the FTC’s franchising division will manage if we all disappear, stop franchising and do in house operations?

There are only 1800 active franchisors in this country down from 6000 in a single decade. It is not hard from this on-going effort to increase regulations to see why. I believe the FTC’s franchising expenditures and funding should be cut by the same rate of decline. After all they caused it. Why is the FTC favoring one business model over another? Actually the franchising model lowers prices to consumers through economies of scale, efficiency of operations and competition. It accounts for one third of every consumer dollar spent in the US. How can the FTC go against the clear choice of the consumer who votes with their dollars every single day, day in and day out for franchising? Franchising has standards of operation and consumers know what they are getting and collectively we in the franchising industry have worked harder and achieved more in our systems than our independent counterparts towards this goal of delivering the goods to consumers.

The consumers have voted for franchising and now the FTC wants to recount Chads and require franchisors to give information to any one who asks even if that person is misrepresenting themselves. And before you say I am off base on these my comments, let me tell you that 20% of all inquiries to buy our franchise comes from competitors. That’s right, 20%. So with 70% misrepresenting themselves on applications and 20% being competitors, that leaves 10%. Only one in ten is actually a possibility of becoming a franchise buyer and then they have to like us. One in ten is not a good ratio. That would mean out of twenty inquiries that we contact and talk to we would send out 18 UFOCs in vain at a cost of \$11.00 or \$198.00. Who is going to pay for this? Well the current franchisees (consumers) pay for it in the market place due to competitive information leakage and we as franchisors pay for it in real time lost and \$198.00 per 20 leads. For our company that is times five per week. One hundred leads or \$990.00 per week and over a year you just added \$51,480.00, and just think we are only getting 100 leads a week. What about those who spend a lot in advertising their franchises, what is their costs? And here is one for you Liberals out there who want to save the damn world by stifling the free enterprise that our forefathers died to protect and give you the standard of living you now have. Our franchise agreement and UFOC with attachments is 155 plus pages, some are 190 pages. Other franchisors have larger documents. Companies like Dwyer, Grow Biz, ServiceMaster, etc., have over 280 pages of documents or use smaller print. So how many

trees are we going to cut down to disclose people who are not even legitimate, do not have the money or are simply looking for free information to attack their competitors? And if you think my figures are too high you are wrong because long about June the United States Post Office is raising rates. Did you know that \$51,480.00 pays for an entire annual meeting for our franchisees including the hotels and meals. Where will I as an entrepreneur cut costs to cover this increase in paperwork. After all every single dollar I spend, is a dollar I cannot use helping our franchisees (your consumers).

Are you really trying to help consumers or are you simply trying to prove your worth as an organization with teeth? The mighty FTC, is that it? The FTC “We will show you who is Boss” attitude. Sounds great, only one problem. That attitude goes against everything this great country stands for and it is the same attitude that the international terrorists had. They attacked NYC because it was the business and money capital of our great nation.

I understand why the Pentagon was a target of these evil doers and also why these scoundrels would never attack the FTC, you are safe, safest place in America, you are helping their cause. The FTC is attacking the fiber of American business, the American Dream and Capitalism itself, because that is exactly what franchising is and the model it embodies. This is not a Socialist Country. I know that thought hurts you people at the FTC. A book of reference on this fact is “The Government Side of Business” by Smoot. It should be required reading by all those who work at the FTC in every department and the entire Justice Department for that matter. You want to change the world for the better. Do not impede, help the model succeed. When you make these types of proposed rule changes you show a lack of respect for our country and for America.

Motels and Hotels in large cities all call each other every night and see what the rates are. They say it is to be competitive, I say it is to know the average rates for price fixing. A hotel that does not want to participate in this informal and un substantiated cartel and price fixing scheme should be able to opt out, and not talk to those fake calls coming into the hotel lobby for rates. These are not the franchised hotels, they are the independents. Although no one has mentioned this, I thought it should be known. Even in HBR-Harvard Business Review in March-April edition 2000 discusses such strategies. The article was called “How to Win a PRICE WAR”. Written by Akshay R. Rao, Mark E. Bergen and Scott Davis they actually discuss the need to stay away from price wars. Pricing strategies and competitive issues help consumers to lower price. The reason for recommending against price wars at any cost had only one motive in mind. They were in search of continued higher profits. Over disclosure promotes price fixing, unorganized and perfectly legal? Sure, but it does promote more than just standardization in an industry, and brings us closer to price fixing tendencies. A recent book “Co-Opetition written by by Adam M. Brandenburger (Harvard) and Barry J. Nalebuff (Yale) both professors. These professors mention the same things, stay away from price-cutting. If the FTC is looking out for the consumer and the consumer 80% desires price over all (look at Wal*Marts success). Just ask a real consumer what their favorite price is and 8 times out of ten they say “FREE.” More disclosure, sooner disclosure and online “look up anytime” disclosures mean no competitors have to wonder about the other franchisors deal, they already know and will all adjust to an upward bias to the strongest name brands; Subway, Midas, Budget Rent-A-

Car, Service Master, Jackson Hewitt Tax Service, Future Kids, Sylvan Learning Centers, Duncan Donuts, McDonalds, Great Clips, Choice Hotels, MBE, Century 21, 7-11 and Radio Shack. Why wouldn't we, as an up and coming franchisor simply match my price to the nearest category of let's say Service Master. After all I would make more money. Yes, it is true you can get the UFOCs now from FranNet for a small fee and most registration states for the cost of printing (they usually claim \$.15 per page, glad I do not have to pay that much to print my documents at Kinkos). However this data gets old quick and it is very hard to stay up on what your competition is doing and the price changes being made due to speed of marketing program development and deployment by fast moving franchise organizations. I know we are changing our offerings nearly every month. In the Hotel example I point out the ways these things happen naturally. In this proposed rule the FTC will actually be promoting standardized pricing for all franchises and therefore the consumer can no longer shop to find the "DEAL" they are looking for because all the franchise offerings will become so similar you will not be able to tell them apart. A franchise for a mobile car wash business will look the same as a small retail sports attire store, except without the building. Yet those are very different business models and should have very different pricing for initial start-up and franchise fees, and ongoing contributions to the system in the form of royalties or merchandise purchases.

Many competitors have pretended to be franchise buyers to get our information through misrepresentation. Here is a list of major competitors we know have inquired for information from our company in the two years: Mobile Services Inc. (CA), Ziebart (largest Detail Franchise in the Country), The Venture Capital firm behind Mister Carwash (second largest Carwash Consolidator in the World), Fleetwash (Largest Mobile Truck Wash in the World), Wash on Wheels (Third Largest Mobile Detailing and Car Washing company), SparkleWash (Second Largest Mobile Washing Franchise in the Country), ServiceMaster (Largest Service Franchise in the World, \$50 million in sales), Blue Beacon Truck Washes (\$300 Million in Cash, 98 Truck Washes and Largest Truck Wash Chain in the World), Car Spa (Third Largest Car Wash Chain in the Country), Kwik n' Klean. I can provide you with at least 200 independents we have identified so far who have attempt to get information from us this way. We have received attempts from nearly every single state in this country. We know who our competition is just like you at the FTC know who your biggest critics are, and the one who will be watching for the next 43 years. (Hint: 37 years old now-80 years of age retirement=43 years).

The FTC does not understand the reality of the situation out there. For instance in one of the market sectors that our company is most prevalent, car washing, there are thousands and thousands of unscrupulous owners. Everything from illegally dumping toxins in to ground water to money laundering. There have been many instances of child molestation, rape, shootings of employees and lots sell drugs out of the back of car washes. For some reason the drug thing seems to be so pervasive that it is a given and the place the police look first to find sources of drugs coming into their communities. Stealing stuff out of people's cars at many car washes on a busy weekend is a ten times per day, daily occurrence, ask the BBB. Or just go to a car wash and leave change, cell phones and other small valuables laying around and then take an inventory when finished. Car Washes also seem to be place where illegal alien labor is the norm. Imagine a cash business that hits all

the IRS clicks for an audit, filled with unscrupulous operators who either commit these crimes, condone these events or allow them to go on and look the other way? Now imagine a mobile car wash service like ours which comes into their markets and does car wash fundraisers for youth groups, hires only UPS, Fed Ex type truck managers and delivers a car wash for less money to you're the door of your office or home? Can you begin to see the competitive factors here when building a better mouse-trap in an industry filled with people like this? Our company has to deal with this everyday. Many times these competitors will come to our web site or call us for information pretending to be franchise buyers, when they do not get any information and we ask them to stop calling they do not. They keep calling and calling and calling. If we yell back at them it is out of total frustration. We cannot send information about our franchisees in the back of the UFOCs to these people, they are liable to send a couple of goons from their car wash to our franchisees house late one night. At another time I will tell you some stories.

If kids were ringing your doorbell and every time you went to the door, nobody was there, eventually you would run to the door to catch them and then yell out the door "You damn kids." By FTC standards this is not allowed in franchising, what is the difference, eventually the kids leave a bag of human excrements on the door-step on fire. Of course you would have to stomp it out and then you have crap on your shoes. By this same example the FTC wants me, a franchisor to be nice to these people and polite and if they ask for information I have to send them a UFOC at my cost. That is like saying a kid can ring your door bell and run away, but if he stayed after the fifth time and put out his hand you would have to hand him something of value, before he would leave and something to all his friends if they came to your door and stayed, even if you did not like the person and did not want them on your property. This is not really an abstract thought on this matter it is in fact very similar to what is going on out here in the real world. What is worse is that some of these kids are regulators themselves pretending to buyers. After a while it gets really old and you are not a sneaky as you think you are. I fail to see the reason for such additional rules protecting kids with vendettas.

I apologize to the FTC for these next examples. But they were made by the so called consumers or should we say "pretenda-consumer" you are trying to protect. I bring this to your attention because your rule would mean these people would receive my UFOC and proprietary information, I have been in my industry since I was 12 years old and built this company the hard way. We have proprietary information, which is contained in these documents under your current disclosure laws. I realize that the FTC cannot know what I know since they do not do what I do and see what I see and hear what I hear everyday. These are real people posing as non-real entities are creating general harassment, which is hurting all consumers. Not all franchisors have to deal in such a wicked industry as car washing, but we have to. And I am, sure we are not alone in these problems. Actually I should get an award from the FTC for my work in standardizing an industry like car washing and making it safe for the public and improving service. Here are the examples and again I apologize for this, but you need to see it to get a glimpse of the real world:

Name: FUCK YOU LANCE		Phone: na	
Address: I ever see you I'm going to kick your ass			
City: You pussy	State: Select State (if applicable)	Zip: demented fuck	Country: United States
Current Work: na		Referred by: na	
Territory: na		Owned Business Before: na	
Timeframe: na		Capital: na	
Web Address: Your fucking Dead!		EMail: na@fuckyou.com	

Here is another one, this one came while I was typing your letter on my computer, same person? Perhaps, but no way to tell for sure. This one came in from a different section of our web site for accredited investors interested in our team:

Below is the result of your feedback form. It was submitted by
 (LANCERISFUCKINGDEAD@YAHOO.COM) on Friday, April 5, 2002 at 21:10:55

 Name: lance r

Title: is dead

Company: fucker!

Address: F

City: U

State: Michigan

Postal: 34345634

Country: USA

Phone : 00000000

Interest: WATCH YOUR BACK

B1: Submit

Obviously the person above is upset that we are beating them in the market place. Judging by this act, they need to be beaten in the market place and replaced by our team, which is

much more professional. And of course we have been getting these since we started franchising in 1996 and put up a web site. I am still alive so obviously these are not the same people who shot JFK, but it really does not make me or my team fill comfortable sending out information to un verified and unqualified individuals. How about you? If the FTC got this e-mail they would send it to the FBI immediately, franchisors do not have the time to waste, we have to work twice as hard now with these extra bogus leads, we are not going to waste the FBI's time, they have international terrorists in our country cruising around to catch. If the FTC would not listen to competitors of Microsoft and allow massive distribution of the Microsoft's Passport program for use in everyone's browsers perhaps these death threats would stop because they could not be sent anonymously, besides AOL has there own version to and the consumer should have a choice. The Microsoft Passport program on browsers would have solved this problem but the FTC is allowing the problem to continue by trying to slow down Microsoft at every turn. Why not go after the competitors who lie in false declarations submitted by the FTC, which lead the FTC to lose face over these issues? They are your enemies, which I guess is appropriate, as Stalin would say, because they are so close. When consumers can only come into a franchisors web site or call without the caller ID blocked then your proposed rules are getting a tiny bit closer to reality since we as franchisors will know who we are really dealing with.

Here below is an example of the basic competitor computer scout, typing in garbage to get to the next screen or page on our web site, to see what we are doing. Sure competitive intelligence is not a crime, but that does not mean we have to hand over list of germs stored at Detriech, Maryland. We created Bio-Terrorism because we did not check the sources of inquiries. Just like full disclosure laws have helped create more competitive terrorism. We get about twenty of these type of computer generated leads per month on our web site with garbage listed in the boxes. I am certain when this does not work they have their wife, girlfriend or brother send in a fake inquiry and try again.

Option: #5			
Name: etsjje te ajtes			
Expertise: sryk sethj		Phone: 4654562434	
Address: 6565 dht shds			
City: htdhdshs	State: California	Zip: 90210	Country: United States
Current Work: yjfssy jy jf js		Referred by: jsyjsyjfj	
Territory: rsjrjsjtyh		Owned Business Before: rhtrhthsrtshrtrthr	
Timeframe: htrtrthrtrtht		Capital: hrtrhrtrhrtrtht	
Web Address:		EMail: 64277247@hssthjssjtrsjm.com	

Of course many times our competition just can't help revealing themselves, such as the one below. At least he was honest about it. If you will look at this form it says under how he was referred to us, he put "know your enemies." It was so thoughtful for him to impart such wisdom. Yes, I agree you should know your enemies. Enemy is a little stronger than

competition don't you agree? This same individual came in previously under another name about two years ago, we were able to cross reference his phone number. How many other times did he come to our page? How many times did he call for information? Hard to say. Would you guess three? Four, five? We are not sure we only know of two.

Option: #1			
Name: Steve D. Ford			
Expertise: 7 years of pragmatic detail bus. growth.		Phone: 909-303-9448	
Address: 31861 Corte Priego			
City: Temecula	State: California	Zip: 92592	Country: United States
Current Work: Mobile detail service provider		Referred by: "know your enemies"	
Territory: Various. Aircraft care is my new project.		Owned Business Before: Yes, detailing.	
Timeframe: current		Capital: opportunity	
Web Address: http://www.oncalldetailing.com		EMail: ocdetail@yahoo.com	

Here is a recent message from a competitor who we called to discuss things with. He immediately started in on us in a hostile and belligerent attitude. "What makes you so great?" "How can you help my business?" "I make \$400,000 per year." "Why should I buy your franchise?" All good questions from his standpoint I guess, but this is harassment. He wanted to give us a hard time. Is he a consumer? No, he is not interested in a franchise, he is interested in a fight. Why should we be polite to this guy? We believe it is best to tell him where to go and just leave it at that. How on Earth would someone expect us to offer this guy a franchise? His information looks okay, but this guy really started words with us. Turns out he is a one man operation and lives with his girlfriend in her apartment. Interesting isn't it? We do not know much more about this guy except we assume he has blue eyes from his email address. Is the FTC really wanting to protect him from fraud and make sure he gets pre-immediate disclosure? I think we as franchisors should be protected from these people.

Name: Gary Dunsford		Phone: 850-458-1425	
Address: 4222 Mobile Hwy Apt 48			
City: Pensacola	State: Florida	Zip: 32506	Country: United States
Current Work: Gary's Deatil Shop		Referred by: add	
Territory: Pensacola Florida		Owned Business Before: Deatil Shop	
Timeframe: now		Capital: nothing	

Web Address:
www.blueeyes199977@aol.com

EEmail: [blueeyes199977 @aol.com](mailto:blueeyes199977@aol.com)

So where do the most fake calls come from? CA, FL, TX, NJ, PA, MI, CO and D.C. area. The ones from the D.C. area we assume are government regulators wasting our time and playing games. The fake ones from CA, FL, CO, PA, MI, NJ and TX are most likely competitors. We get the most people lying about their financial net worth from FL, CA, IL, TX, and GA. It appears that some of these people actually believe what they say or a sociopaths. This

6.) Cost To Print UFOCs.

What is the real cost. I'll throw out a number - \$ 7.00 (\$.05 per page multiplied by 155 pages, not including \$3.50 postage and envelope and label costs) to print a UFOC and most franchisors do not print just one at a time, they print several. Many never get used because there is always new case law showing up on the ABA Forum on franchising and so we are constantly modifying them. We made 22 changes in the recent UFOC for the state of California for renewal this year. We had about 10 sets of documents left over from CA, which will be invalid in a few days and will be tossed out as the new redlined copy becomes the latest CA version. So really we have \$70.00 in wasted documents, and that is just CA. It is not the only registration states. Any and all UFOCs which are currently printed will have to be thrown out if this rule is passed because everyone will have to add clauses that state; **“Even though we offered you a franchise with the delivering of offering, we reserve the right to change our minds and refuse to sell you a franchise, so technically you have UFOC, but we did not offer you anything yet”**. And then there will be a suit and new case law until that issue is rectified. Again more waste. Very similar to the employment law binders that we have to maintain and the application forms that are constantly changing in 50 states and three territories in the US alone.

What a waste of money. We talked about the \$51,480.00 per year expense, which is conservative in the actual calculation. That is about 4,600 or so UFOCs creating a stack not quite 48 stories high at one inch thick per document and actually they are about 1.3 inches thick. At least ours are. Now mind you I realize that **if you stack every page of OSHA laws on top of one another it is 56 stories high, so you as government workers do not see a problem with a mere 48 stories of UFOCs**, but I do. And just think, we are still a small franchisor. There are 1800 franchisors who are active and many are bigger than us. Are you kidding me? **You want me to print 48 stories of paper documents to sell maybe 50 franchises next year**, probably more like 40, but hey I am an optimist and want to give you lovely people at the FTC benefit of your wonderful new brainstorm to help consumers and create job security by making more rules. I didn't make these numbers up. I am sitting here with a calculator. Remember we are little franchisor comparatively speaking. The actual printing costs are over \$32,200.00 without the postage. If it is the FTC's objective is to revitalize the timber industry in their quest to cut down more trees and bring jobs back into the US from Canada, then you are definitely on the right track here. Perhaps that is the answer to the anti-dumping tax and tariffs established in the

industry sector. I did not realize the FTC was so brilliant at multi-dimensional, multi-faceted, multiple industry rule making. My hat goes off to you fine folks. **Obviously any additional printing costs associated with this rule will be passed on to the consumer,** the same consumer scraping by to get into the franchise after losing their job. How does this help anyone? We are suppose to be helping and protecting consumers not inventing ways to screw over real Americans who want a better life. What will be the new acronym for FTC-“F__ _ The Consumer?” Because this rule, if enacted, will cost real Franchisors real money and that real money will really be passed on to real people (consumers).

And don't tell me you want me to email these documents. They take up 2.1 megabits. Many UFOCs have actual logos in the Item # 13 and when you add in a picture you sometimes end up changing the file from a “.doc” to an “.rtf” file. Any time you add a “tiff” file into a 155 page document it adds space and takes a lot of bandwidth to send. Also realize many people will download these files and they will have their defaults set differently on their word processing program and therefore the pages will come out all screwy and the table of contents will be invalid confusing the potential franchise buyer (consumer). You see when the FTC went after Microsoft they hurt consumers of software by preventing us from having a standard format to email across the Internet (that is true). I have to tell you when registering a franchise in the state of California they require the documents are submitted in Microsoft Word 97 or greater. **Are you paying for the bandwidth to send out 48 stories worth of documents from 1800 franchisors? (That would be over 86,400 stories worth of documents, more stories than the entire skyline of NYC before the international terrorist acts from the evil doers.)** And do you really think your good friends at AOL, who lobbied you and gave the FTC free email addresses to spy on businesses in America are going to appreciate this added bandwidth (don't even try to deny that one). After all Microsoft is still their competitor. You did not accomplish the goals that AOL set for you. Are the consumers you are helping by tying up their email and crashing their system as they wait for half an hour to download their emails, which contain a UFOC that day really going to be saved? Is this helping them? Are you happy when someone sends you a large email that ties up your system? How about when they tie up the FTC's franchising divisions fax machine all morning?

Franchisor's wanting to save money in mailing would have no choice but to have an online document. To protect this online document from alterations made by a recipient we would have to use a “.pdf” format which would mean that a complete disclosure document of 140-285 pages would take over 20-30 minutes for a potential franchise buyer to download. You know what would happen? The prospective franchisee would just turn it off and click to the next web site or go to the FTC's site to complain on their easy to use, all comers “complaint form”. Eventually there will be a day when MIT gets their act together with patent rights and delivers the 1000:1 compression rates available for XML in customized algorithms. Once they do this they can give it or license it to AOL's Netscape and Microsoft Explorer for their web browsers. Even so that could be a year to get to market and another two for every one to upgrade to the latest browser containing that algorithm. Maybe we should just wait and revisit this proposed rule change then and then downsize the disclosure documents to match the potential franchise buyer's temperament. Then there will be a way to quickly retrieve large online documents, although most franchisors will

opt out due to the proprietary information, which will be distributed in the process to unscrupulous competitors. **What really needs to be done here is a complete overhaul making the entire disclosure procedure easier, simpler and less bulky. It needs to be trimmed down just like most agencies in the government and many American bodies according to the latest obesity health studies by the Berkeley Wellness Letter, which many at the FTC read each month with conviction. Downsize the documents. That would be most helpful to consumers.**

If the information was available on the web now, name a consumer who would want to wait to download it, read it online (taking 2 hours for a speed reader) without getting cataracts or waste a printing cartridge to print it? It would cost the consumer more than \$.05 per page to print the document on a Cannon Bubble Jet or HP Desk Jet. Have you ever tried to buy a cartridge for your PC at Office Depot or Staples or tried to refill those darn little things without spilling the ink because they purposely make it difficult so you buy a new cartridge instead? **A person staring at a computer screen for 2 hours reading a set of disclosure documents would fall asleep. Is the FTC wanting to help America with insomnia from the stress caused by the post 9-11 network media?** The FTC ought to get on the ball and submit to the industry a standard for the new online signature technologies. I will be happy to assist with this review it since I am more than up on this subject. That is the technology we really need and it is here. Move into the future with the industry. Do not slow us down with ridiculous rules that hurt consumers and franchising. That is lose/lose. It just makes everyone hate the FTC.

What if the consumer in their exuberance contacted 15 franchises one day while surfing the web for franchises? 15 franchisors sending that amount of data to an consumer's AOL email address would take a little over 3 hours if you are on a 28.8 Internet speed that day. 1.5 hours at 56K. And do you really believe a franchise buyer (a real one) is going to want to continue discussions with various franchisors and compare them when every one of the franchisors sent them an email bomb? That used to be what off duty FTC people did in their off time. (This information overheard from FTC government employees while at Washington, DC Starbucks, not the same Starbucks where the intern was shot, the one across the street from 600 Pennsylvania Ave.) They sent the Holy Bible from a CD ROM to email addresses of webmaster's of porno sites (your basic email bomb). I guess you could send Encarta it is much bigger with more information (too bad you hate Gates), but the Bible did have irony. I laughed as I overheard that, now I am not so sure. And don't ask me to do this to innocent citizens and consumers who inquire about our franchise. I own a business. I am not allowed to break the law like that. Must be nice to be above the law.

If franchisors do send out their UFOCs by email then the FTC will get complaints from consumers with crashed systems, who cannot get their email. Ever work at a help desk? I have, franchisors are just like a giant help desk. People get pretty ticked when they cannot get their emails. This will force the FTC to revise the new rule and make up another rule saying no unsolicited UFOCs may be sent through email, in other words we have to send out the information, but we must get confirmation and we have to mail it, even if we do not have a correct address. Similarly the Postal Workers will complain about the excessive

weight of these UFOCs if four or five arrive on the same day to a single residence who got online 10 days before (time it takes to get something in the mail these days) and rifled off emails to franchisors with various questions pertaining to the possible purchase of a franchise. **The poor postal workers, first anthrax and now broken backs.**

Then you may make a rule that instead the information must be on your web site. Good idea, but where is the franchisee coming from? Which UFOC are they allowed to view? What if they download the one from a registration state they are not in? And then who is paying to keep it updated. And which one do you put up if there are 11 registration states, multiple Canadian Provinces, notification states and the FTC version, all different, not much but they are different. And web people last time I checked still do not work for free yet. Even the “dot bombers” still make in excess of \$60.00 per hour and what will it cost for an SQL or XML database system to be created to search by zip code. Last quote I got was \$5,500.00. And realize that there is a shortage of these people in the country who are really good at the XML technology due to the new VoiceXML markets about to open which will crash all the telecoms forcing more people to try to buy franchises. Perhaps the FTC can pay for this technology and give it to franchisors to put on their web sites so people can view their documents, but shouldn't it be a shortened version like the example below presented in a standard format. You can then keep the UFOC rule of disclosure of ten days before purchase for the actual real franchise buyers who have received a complete UFOC document. A shortened document in the mean time on a web site could contain enough information for a potential franchise buyer who is real, does not give away too much information to competitors, creates no email bombs, does not cause excessive expense to print non needed UFOCs. Something like this in three to five pages for easy comparison for consumers posted on the web sites. If a franchisor has multiple jurisdictions they can create multiple pages for the potential buyer to go to.



Pre Franchise Offering Circular Basic Information

WashGuy, Inc.
An American Corporation
12345 Local Road
Anytown, USA 67890
1-888-WASH-GUY

SAMPLE

The Franchise is a portable car wash system capable of on-site car washing. The Franchise fee is \$20,000. The estimated initial investment required ranges from \$88,250 to \$116,600 including the franchise fee and \$10,000 of cash on hand for initial working capital.

Risk Factors:

- 1. THE FRANCHISE AGREEMENT REQUIRES THAT ALL DISAGREEMENTS BY YOU BE SETTLED BY ARBITRATION ONLY IN AMERICA. ALL DISAGREEMENTS BY US MAY BE SETTLED BY ARBITRATION OR LITIGATION IN AMERICA IN OUR SOLE DISCRETION. OUT OF STATE ARBITRATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO ARBITRATE WITH US IN AMERICA THAN IN YOUR HOME STATE.**
- 2. THE FRANCHISE AGREEMENT STATES THAT AMERICAN LAW GOVERNS THE AGREEMENT AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTION AND BENEFITS AS YOUR LOCAL LAW. YOU MAY WISH TO COMPARE THESE LAWS.**
- 3. THERE MAY BE OTHER EXTREME RISKS CONCERNING THIS FRANCHISE AND YOU MAY LOSE ALL OF YOUR INVESTMENT.**

Information about comparison of franchisors is available. Call the state administrators listed in Exhibit D or your public library for sources of information.

Registration of this franchise with the state does not mean that the state recommends it or has verified the information in this offering circular. If you learn that anything in this offering circular is untrue, contact the Federal Trade Commission and/or State authority.

EFFECTIVE DATE: Jan 1, 2002

ITEM 7
INITIAL INVESTMENT

SAMPLE

Payment	Low - High Amount	Method Of Payment	When Due	To Whom Payment Is To Be Made
Initial Franchise Fee	\$20,000 ¹	Lump Sum	Upon signing the franchise agreement	Us
Fee, Travel And Living Expenses While Training	\$2,000-\$4,000	As incurred	During training	Airlines, hotels, car rental agencies, restaurants, trainers
Uniforms, Stationary, Initial Cleaning Supplies, Licenses, Insurance	\$2,000-\$2,500	Lump Sum	Before opening	Vendors, state or local government
Hot Water/ Pressure Washer And Other Equipment	\$15,000-\$17,000	As required by vendor	Before opening	Vendors
Credit Card Machine, Cellular Phone, Pager	\$250-\$1,200	Lease or purchase	Before opening	Vendors
Computer Software And Hardware ⁴	\$0-\$2,000	As required by vendor	Before opening	Vendors
Fax Machine	\$200-\$400	Lump Sum	Before opening	Vendors
Vehicle Signage	\$300-\$1,000	Lump Sum	Before opening	Vendors
Truck	\$19,000-\$29,000	As negotiated with dealership	Before opening	Auto Dealership
Truck Bed	\$6,000-9,500	Lump Sum	Before opening	Vendor

Payment	Low - High Amount	Method Of Payment	When Due	To Whom Payment Is To Be Made
Natio nal/Regional Advertising Fund – Three Months	\$0	None	None	N/A
Working Capital	\$3,500-\$10,000	As incurred	As incurred	Vendors, Employees, Us
Total	\$88,250- \$116,600^{5,6,7}			

SAMPLE

¹ The \$20,000 Initial Franchise Fee may not be uniform for all franchises now being offered by us. See Item 5 for conditions when this fee is partly refundable.

² Your computer must have the following performance or greater: IBM compatible 1.0 GHz Pentium, 164MB RAM, 20GB hard drive, 10x CD-ROM, 56 Kbps modem, Broadband or Internet access via ISDN, DSL, Satellite or cable modem, zip drive backup, mid tower and a 15” SVGA monitor or Dell Inspiron 7500 Lap Top. You must have a 600 x 300-dpi or greater quality printer. Also, you must have a Microsoft operating system, Microsoft Office 2000 or newer and Intuit’s QuickBooks Pro.

³ This estimates your initial start-up expenses. These expenses do not include payroll costs, if any. These figures are estimates and we cannot guarantee that you will not have additional expenses starting your business. Your costs will depend on: how much you follow our methods and procedures; your management skill, experience and business acumen; amount of time and energy you spend on your business; local economic conditions; the local market for our service; the prevailing wage rate; competition; and your sales levels reached during the initial period.

⁴ We relied on over 20 years of experience of our founder in the mobile car washing business to compile these estimates. You should review these figures carefully with a business advisor before making any decision to purchase the franchise.

⁵ We do not offer direct or indirect financing for any items.

I believe that some easy to use format such as this sample that is quick to read and standardized on a web site will allow a franchisor to communicate with the Channel Surfing, Internet Clicking, Road Rage Impatient Consumer at the speed they wish to receive the information without incessant costs to franchisors. Give the customer (consumer) what they want and everyone wins in this. The FTC can have better disclosure, franchisees can quickly compare and evaluate franchisors who will have no printing waste. It will actually enhance a franchisor's efforts by saving them the time they spend explaining their system to potential buyers who will be able to see for themselves whether or not they can afford the franchise and eliminate themselves from future screening processes saving more time for the franchisor. This will also add to increased competition by franchisors trying to have the better deal at a better price, since consumers can now compare more easily. Once the Microsoft Passport verification is done, the potential franchisee can be forwarded to the screen containing this mini-disclosure online. Thus the true purpose for the FTC is being served without attacking the fiber of American Small Business and the greatest business format ever created in the history of mankind.

I am in no way advocating this (my) sample as the only way. It is one possible way that may work. The industry along with the FTC can come up with a format that makes sense. Within six months everyone will be in compliance or receive a letter from the FTC and a cover letter from the NFC and IFA with the format in an email and instructions for the not yet in compliance franchisor to forward to their web designer implementation in a few days, problem solved. I chose this sample because **Items #6 and #7 are most important to the franchise buyer and the first page of the UFOC is important to FTC and the summary in a table of the franchise agreement is important to the understanding of the deal these components should be in the quick form on the web sites, you can call it "FTC-EZ" similar to the 1040EZ.**

The current rules that you are proposing in the format you propose them will hurt the consumer and trees. Most employees at the FTC are tree huggers. Either you are with America, trees, consumers and free enterprise or you are against us. Rules simply to make rules, with no real goal in mind and no end to the upcoming rules this will add in the future will not help anyone. Perhaps the FTC wishes to fund the rule by paying every franchisor \$50K+ or their estimated cost to print these 48 stories of documents or perhaps the FTC could contact the IRS for a tax credit on all money spent in UFOC printing as long as it was through a bona fide franchised print shop? I suggest that if the FTC tries something similar to the solutions I am proposing that they will have one less lifetime critic of their efforts in franchising.

Another way to solve this problem is to make the "FTC-EZ" form in Warren Lewis's Easy to Read, "Plain English" Style but the same format as the required disclosure from Mexico. They have 10 Items. All very basic yet very important and Mexico was careful to point out in their rules that a franchisor was not required to put anything in the pre-agreement disclosure that was potentially proprietarily confidential. These same ten items could be on the Franchisor's web site after a prospect puts in their information. We need one rule for one Planet, not multiple states rules and rules upon rules from the FTC. That is bad for a one-world economy, that is bad for free trade, and that is bad for the competitive

knowledge base of American Companies. As jobs for manufacturing continue to leave to other countries where wages are lower, all that the US will have is knowledge to sell, know how. If Franchisors are required to give all their knowledge away for free to anyone from anywhere who asks for it, how can they survive and continue to innovate, yet still support the many consumers who have already purchased, the franchisees in their system? We cannot afford to have massive failures of small business in this country and if a franchised small business cannot survive, no one will. It seems Mexico's system is better than ours in this regard and does not require the giving away of free information pursuant to rules of over disclosure.

In November 23rd, 1994, the Mexican Government promulgated the regulations under the Industrial Property Law, all of which came into effect on December 8th, 1994. Pursuant to Article 65 of the Regulations, the franchisor is obligated to disclose the following ten items of information:

1. the name, corporate name, address and citizenship of the franchisor;
2. a description of the franchise that is being granted;
3. the amount of experience of the franchisor, and to the extent that the franchise is being granted pursuant to a master franchise arrangement, the experience of the master franchisee;
4. the intellectual property rights that are being granted pursuant to the franchise;
5. the amount and the nature of the payments that are to be made by the franchisee to the franchisor;
6. a description of the services and technical assistance that is to be provided by the franchisor to the franchisee;
7. a description of the geographical area in which the franchise is to be operated;
8. disclosure as to whether the franchisee is granted the right to grant sub-franchises and under what circumstances and conditions;
9. the extent of franchisee's obligations with regard to confidential information provided to him by the franchisor;
10. a description of the rights and obligations of the franchisee under the terms of the franchise agreement.

It is clear from this list that the disclosure requirements that are placed on a franchisor really represents a "minimum" but are still comprehensive. Apart from the disclosure requirements under section 3 above relating to the experience of the franchisor, all of the other information is information that would normally be included under the terms of a typical franchise agreement. In addition, the Regulations do not appear to provide for the submission or filing of the Disclosure Statement with any governmental agency for its approval.

A system such as this for abbreviated disclosure on a web site would be worthy and advisable anyway. It could easily be put on a web site in a “.pdf” format, which would only take about twenty seconds on most computers to download since it would probably be under five or six pages. By using a “.pdf” format the information could not be altered. What is also nice is that it would not have to be submitted or reviewed by the FTC and if adopted by the Canadians it could become standard in all North American Countries. I am sure Brazil would oblige after their recent commitment in Canada at the North American Free Trade Conference. Imagine if all the states would have a one filing program that would still be recognized by the FTC. All this work has already been done by Warren Lewis and I have yet to talk to a state examiner from a franchise registration state that did not like his idea. The other neighboring countries would all be on the same page with regards to web site disclosure of minimums. Then we would not be promoting barriers to entry from new franchisors with great ideas and ways to help standardize industries helping consumers understand what they are buying.

I almost feel at this point with over 40 hours into this letter and just over half completed that the FTC owes me money as a consultant for doing their job for them. I am assisting you in your **proposed rule changes that you are spending probably over \$250,000.00 on with all the staff time and public comments. Every time the FTC proposes a change to any rule it should have an absolute cost study of the real cost for the project, not lumped into the general fund. It should have absolute data proving that such a rule is necessary that can be reviewed like any typical academia project. It should have sufficient complaints, all verified as real people, consumers.**

I recently read in Larry Elder’s latest book “The Ten Things You Can’t Say in America,” that when Disney came under fire for discussing real society issues like this on their weekly TV show they received thousands of complaints. “As near as we could tell, ‘the protest’ consisted of no more than 30-40 people using computers and fake addresses created an avalanche of complaints.” The book goes on to explain that they eventually contacted 17 of the 30, the others had given fake information, so they invited these people down to Disney, only a few showed up, ate the food, pocketed the rest of the food and still made demands of what they wanted. The network show to end. These are similar tactics that the Sierra Club uses to stop projects. The FTC often condones these franchisee rights groups, consumer protection groups and general email and phone complaints. Then as we are seeing now move to act upon such outrageous complaints and demands. It is so unfortunate that such ridiculous proposed rules have even been able to come this far.

Right now more than ever government should be working with American Business and Industry to unite all in harmony, help us out of this recession and move forward for a more prosperous tomorrow. If government does not move towards the goal of unity, it will not be needed in the regulation of American Business, because there will be no more American Business to regulate. Government is not the only one wasting money, taxpayers (consumers) money. Free enterprise is also turning in thousands of what should be billable hours discussing these proposed rules. By the time this letter is done pointing out suggestions and the fallacy of a need to added rules, I personally will have 100 hours in this project myself. All of this is unnecessary. I would like to have the contact name and address of the FTC’s accounts payable department to send my invoice

from Lance's Consulting Service. My time needs to be spent helping our current franchisee's (consumers) accelerate out of this recession so they can feed their families, send their kids to school and maintain their American Dream that the FTC is so badly trying to destroy.

The FTC's job is not to promote more barriers to entry to stifle free enterprise and entrepreneurship although with this current tact you would never believe that. The FTC's job is to protect consumers both current franchisees who HAVE already purchased and potentially future franchises who MAY purchase without limiting choice or stifle competition, two elements essential to free enterprise. Call me a free market fundamentalist if you wish, but neither Allen Greenspan, Ayn Rand or President Bush would disagree with that statement. My question to the FTC is why do you hate those names so much yet swear to uphold the doctrines of the United States of America when serving in your current capacity which is also based on Capitalism? **Inner fighting in Washington and anti-business attitudes toward a small group of 1800 active franchisors in America that just happen to account for one-third of every consumer dollar spent in this country is more than anti-American, it is by all practical purposes Terrorism.** Just the thought of destroying the possibilities of achieving the American Dream in our citizen's quest to fulfill their right to pursue happiness is communistic at best.

7.) Which UFOC To Send Out.

In the case of our company we have multiple offerings for different market sectors. For instance Boat Washing requires a pontoon boat to go out on the water to wash boats, Car Washing requires a mobile trailer or truck mounted unit and Truck Washing requires a custom flat bed truck mounted unit. If a potential buyer sends an email and asks questions, but in his email he does not disclose if this address is his residence address, we very well could be sending a UFOC for a jurisdiction next door where he works, instead of the UFOC required by a registration state where he lives inadvertently violating state registration laws. If a potential franchise wants to be in the washing business but he does not know which sector yet, we need to find out his needs otherwise we end up sending a UFOC to a person for boat washing who can't swim, has epileptic seizures or has no ocean, lake or river near them. If we do not know more about the person and their physical attributes we might send a UFOC containing information about our Truck Washing franchise in which he cannot perform and might over stress his body. If a female potential franchise buyer emails us under her boyfriend's email address, we might send out a UFOC for the Car Wash Guys, when she was interested in the Car Wash Gals franchise. In the cases of other franchise companies who sell multiple offerings, the offering the potential franchise buyer might be interested in may have been sold and they need to look at their needs to see if any of the others available will still accomplish their goals for owning their own business. This can take several emails and questions. They cannot send them all the different UFOC they have for every market sector. And what if, and this has happened more than once, a potential franchise buyer lives in a place where three states come together. Two are registration states and one is non-registered and therefore will fall under

the FTC guidelines, yet the potential buyer has not made up his mind which area he wants to franchise in? Do we send him all three? Or since your FTC rules will be out of whack with the registration states do we send him the FTC's version on first contact and then he decides he wants the other city in the state next door instead, causing confusion to the potential franchise buyer, because the documents are different due to case law in different jurisdictions such as non-competes in right to work states. Or in my case let's say there is a big airport in one city where he could wash planes and he will need extra EPA environmental equipment and licensing. The state next door has a city with a golf course and marina on a lake. And the third city has a huge distribution center of the tri-state area. I can think of many places this scenario could and will happen. In this case there could be different franchise agreements since we do not put them all together like the Dwyer Group. Each one of ours is individually developed as not to confuse the consumer. Which UFOC do we send out?

There is always a debate on which jurisdiction the potential franchisee is coming from. For instance many franchisors do not register in place like North and South Dakota with small populations. It is not a target market and some franchises are not suited for inclement weather and migrant snowbird populations in winter. So if the potential buyer was a resident from such a location they would not need any disclosure, abbreviated or otherwise since that franchise is not registered there and cannot be offered. Again we cannot have the FTC arbitrarily make a decision that would never be followed by registration states, or for the FTC to supercede registration states and require a franchisor to send a UFOC to a potential franchise buyer who submits an email, lives in a registration state where the franchisor is not registered. Now how on Earth would the franchise buyer know he is in a registration state until someone tells them. They would be upset because the FTC said they can have one by simply contacting a franchisor and asking for a brochure by FAX. The franchisor may not have a list of all the new area codes that is updated. They change every month as you should know.

I remember recently a young man from Guadalajara emailed me from MA. He was attending classes at Harvard Business School and wanted to be a master franchise in Guadalajara. So he should get the International Version of our Master Franchise Agreement, which we do not even offer in the US. He did not disclose the fact that he was a Mexican national until the fifth email. We assumed he was US citizen or dual citizenship. After all that is where we were going to send the disclosure documents to. He might even be a college student doing a project for all we know. This is why you need verification of all data on the application before you go around sending UFOCs to anyone who emails, claims to be a buyer or is wanting information. A franchisor must verify information, do a background check before sending the wrong UFOC and violating state franchise registration laws. If all the agencies would get their act (s) together then we could have the problem remedied and you could change the rule. One document, one set of laws countrywide.

Now let me tell you a common occurrence, a potential franchise buyer will ask to have something faxed to them. Let's say they live in IL or claim to but give you a fax number in Seattle, when you ask them about this, knowing it would be a different UFOC in IL than

in WA due to changes required to be made by state examiners. They say it is an E-Fax number, do not worry. Oh, but as a franchisor I have to worry, using an electronic medium or phone line to send out a legal franchise offering or information regarding such. And occasionally the potential franchise buyer finds us on the Internet or sees an existing unit driving around in a city he is visiting on business and asks us to send information to his hotel. His rationale is he will be there for a week or two on a project and will have time to read anything we send and he really wants his own business in his own city, tired of being away from family for long periods of time. Even dreads the lines at the airport after 9-11. Now if we send the information to the Hotel by US Mail and he likes the idea, but washing cars is not something this executive sees himself doing, so he hands it to the local contact there, who thinks it by far the coolest thing he has ever seen. Yes, there are laws to protect a franchisor from this scenario, however you can see how fast you can move from black and white to gray. And think of a franchisor who has 100 people in the buying process at anyone time. Trying to keep track of all of them. Occasionally a flighty salesman maybe in the loop. A salesman who is honest, but jumps from one job to the other, really looking out for the biggest commission and best offer for his sales ability. They jump around a lot as you know, maybe Zig Ziglar wrote about that in one of his books as a good strategy, I don't know. You might have been able to keep the salesman, but with the new proposed law you had to cut commission structures to pay for extra UFOCs. Now you have a prospect with the wrong UFOC, in the wrong place, you do not know if he has been working with one of your salesmen or not. You do not know if the prospect is unqualified as matter of fact the prospect may never be qualified and has a background check problem for all you know.

This type of scenario will be compounded with 48 stories of UFOCs each year floating around with many of them out dated, out of jurisdiction or in the case of multi-model franchisors, the wrong franchise offering for the wrong person, for the wrong area, for the wrong reasons, with the wrong prices and stipulations. Ouch, if that will not lead to more complaints to the FTC, I do not know what would. Of course more complaints help the FTC show the GAO that complaints are increasing and they need more budget to make MORE RULES. Here we go again. Looks like I will be writing more letters like this one twice a year for the rest of my life. Maybe I should hire an attorney to write letters or a staff member and then pass on all those costs to the FTC's wonderful consumers who can do no wrong. Some one has to pay for it. These proposed rules will make it very difficult to see that the franchisee receives the correct UFOC information which is appropriate with every email, direct mail or fax response.

8.) Pre-Qualifying Applications.

In every single industry these days they are enacting '**Know Your Customer Laws**', yet the FTC feels it in their power to make rule preventing you from knowing your customer. **I have mentioned International Terrorists risks associated with the current disclosure documents and hereby put the FTC on notice that they are causing a severe breach in our nations security and potential risks to the lives of tens of thousands of consumers and countrymen.** I have discussed jurisdictional problems of where the inquirer lives,

works, will operate. Before disclosure a franchisor must know whom they are dealing with and what the laws are in that area. We must know if the franchisee would make a good fit. We cannot simply take someone's money and set them up in business without knowing more about them. Nor should we offer a franchise to unqualified people who potentially might fail. We have a moral responsibility to the potential buyer to make them aware that a business may not be right for them. I doubt if anyone who has been in this industry very long would disagree with that. The potential franchise buyer has a moral responsibility to tell the truth. Franchisors also have a responsibility to their shareholders, franchisees and employees to maintain a strong system and not allow unqualified or undercapitalized franchisees into the system. We have a responsibility to operate a business in a fiscally sound manner and not waste costs on sending out information to people we have no intention of selling anything to. The only way we can know that for sure is to have this application process. With that said, the proposed rules hold no weight.

9.) Destroying Free Enterprise.

Free enterprise is where buyers and sellers of their own free will come together in trade through a common monetary instrument. If a franchisor is forced to offer or send out information of an offer to a potential buyer that he is unsure that he even wants to do business with, then in fact it is not free enterprise. It is forced enterprise. When Government is forcing one party against their will to do business with another party whom they are not sure about, that is not free enterprise, actually it is not even close. This is not a toy at Toys R Us sitting on a shelf where anyone can walk in and view it and the price is set. This is franchising and it consists of many other issues. It is an ongoing relationship, which might span 20 or more years. You would not marry a person or propose a marriage until you felt you knew the person better. Franchising has been described as a marriage by many organizations such as the SBA, SBDC, FTC, IFA, AAFD, Women in Franchising, AFA, NFC and others. In college textbooks I have often seen the statement comparing Franchising to a marriage. The late great "Dave" founder of Wendy's in his book describes it as a marriage. It is also in other books I have read. When giving speeches at colleges to business students I have used this analogy and never once has the professor pulled me aside afterwards to discuss such a comment. It is a common analogy and it fits and we should treat it as such. Forced enterprise is very socialistic in nature and would not fit into the current structure of capitalism. Forced marriages do not exist to any large degree in America and neither should forced franchised outlets.

10.) Business Plan Debate for UFOC.

Potential franchise buyers tell me they wanted to put together a business plan for their potential franchise and therefore they need all the disclosure documents. They ask for this before they fill out the confidential questionnaire. We of course do not send out a UFOC without a completed questionnaire. We have had potential buyers fill out the questionnaire and leave information out, because they did not feel comfortable with problems associated with identity theft and still want the documents. So that consumer puts us at a standstill.

They want to put a business plan together to estimate the worthiness of the business, but need to know all the costs associated with it before they give us their information. Yet that information is readily available on most franchising web sites already. Of course we need to determine if they can even afford it (if they cannot we cannot spend the time on the sales process) or determine if they are one of the 20% of all inquiries that are competitors before we give away information contained in the UFOC. To top it all off, we cannot assist them in earnings or expenses because we do not give earnings claims because we do not collect the data. Therefore under current rules we cannot substantiate the data even though we know the answers after being in the industry for 25 years. Now the FTC wants us to offer a UFOC because a potential buyer wants to make a business plan of our business model, that we do not wish to sell them?

A potential buyer wants to put together a business plan to get funding to buy a business for which he/she does not have the cash to buy. In order to get a loan, they will need a business plan. But any business plan they put together will be in contradiction to the absolute franchise business model that the franchisor will reveal after the actual purchase. I have heard FTC people say that they believe the potential buyer has a right to the information necessary to put together a semblance of a business plan to determine if they should buy the business. Whereas this seems like a good idea on the surface the FTC has put into place rules making it impossible. They believe that this type of added disclosure sooner in the buying process will help. Yes it could, but a franchisor cannot provide the information unless first he can substantiate it and second unless the potential franchise buyer can prove he is a real buyer and can afford the franchise. We believe the answer to this concern lies on the back of the potential buyer to fill out a questionnaire truthfully and correctly and for the franchisor to verify data on that application before disseminating any additional information. At that point our company provides for the potential franchisee to go work with an actual franchise for one day and bring a calculator. We can provide a blank spreadsheet with typical expense categories on it but no numbers. The potential buyer in our franchise can visit a current franchisee and bring his/her calculator. And of course the disclosure documents will be provided once the proof of financial capability has been satisfied somewhere in the application process time frame.

It also appears from observation that no one really seems to understand the franchising model outside the actual industry practitioners, attorneys in franchising and those who own franchises. The FTC certainly does not see the whole picture. I would invite Steve Toporoff to go on a paid sabbatical and work in a franchisor's sales department sometime and listen to real franchise buyers ask questions, competitors trying to get information and the obnoxious looky lou's. The FTC should also send four or five of its highest-ranking franchise sector employees to do the same. I think if that were done you would begin to understand the ridiculous nature of enacting such a revised disclosure rule.

But the FTC is not the only organization that does not understand franchising. I spoke at the SBDC's Annual Conference in San Diego, CA recently. In the workshop on franchising I had about 50 directors from around the country from the SBDC bombard me with questions after giving my talk. I was dumbfounded by the lack of understanding and knowledge on franchising. Almost to the point of frustration and wanting to walk out. I

carefully worded my answers to make sure they were understanding the issues. Finally we made some headway and many stayed afterwards to continue the conversation because they knew franchising was a major issue with their clients who come in for counseling usually prior to getting an SBA loan or putting together a business plan for a franchised business. I got to thinking about the 550 or so Directors and Executive Management of the SBDC Annual Conference that were in attendance and wondered why weren't all the participants in our workshop? After all franchising is the largest sector in small business, not to mention accounts for the most efficient small business models. Executives of the SBDC should have training in franchising as compulsory.

FTC should be helping all potential consumers of a franchise to understand what franchising is, but look at the information put out by the FTC, all they do is call to attention all the possible frauds and tell consumers to watch out, just look at their web site. You would think every franchisor is a crook. We all know crooks do not last long in franchising. I think the FTC's tact is a travesty, because some people will lose all their money if they start a small business, franchisors require structure and help people realize their American Dream. You would think that the FTC would applaud such efforts. Instead the FTC purports that the franchisors are fraudulent at every corner, bull! Fact is that the FTC is grandstanding and purporting their own importance to the consumer, offering hundreds of questions that potential buyers should ask of franchisors before purchasing and then making rules prohibiting the answers of the exact questions they recommend to ask through their own rules associated with disclosure.

The SBDC has hundreds of sample business plans on file to help potential small business owners develop business plans. But none are sample business plans for a franchise. I have in my personal library ten books on how to write a business plan. None of them have a sample business plan for a franchise business. It is not taught in schools including the curriculum at the Entrepreneurial Studies at USC. Only one or two schools teach the compilation of a franchisee business plan in their entrepreneurial studies courses and then they simply mention it. Our company has just devised a "fill in the blank business plan," which we may use to help qualified franchisee buyers. The franchise buyer can call up existing franchisees and decide what numbers should be put into the plan. These are what the franchise buyer really needs, but of course not until they are qualified.

The early disclosure debate for reasons of making a business plan of a possible franchised business does not hold water. Even once the potential buyer of a franchise has the UFOC there are no sample franchised business plans available. In any franchise the potential buyer must fill out a form and prove financially capable before such information can be given out. In some registration states this would be considered advertising and be subject for review and once reviewed this would go into public record and therefore it cannot be used at all since it would be pre-signing of agreement. The franchisee does not need a disclosure documents prior to the qualifying, nor should a franchisor be required to give it out. If a franchise buyer makes a business plan or spread sheet for a possible future franchise it will surely be incorrect because the franchise buyer does not know the ins and outs of the franchised business yet. Therefore the franchise buyer maybe leading himself

into a falsehood of how he believes the franchised business works and what his new franchised business and new lifestyle might entail.

We have had many recent potential buyers ask us for the UFOC so they could write a business plan before accurately filling out the application, or before we had a chance to verify what they filled out as being true and correct. This is not a good argument from the potential buyer. First you must qualify and be verified before we give out data for any purpose including writing a business plan for a franchised business. After all you could be a student doing a project and the business plan you write could appear in the next years text book for the publish or perish professor. It could end up on the Internet, which is what happened to one of ours that was written by a franchisee in Little Rock, AR after a counselor of the SBDC felt was her duty thus disclosing proprietary information of our system to all. Thank god it was written by a franchisee and was actually not correct entirely otherwise that would be copyright infringement, which we as franchisors claim on all proprietary information. It does a disservice to the hard work of many franchisees and the franchisor himself. It also invites competition to the franchisees thus inadvertently gives a competitive advantage to those consumer who have already purchased franchises trying to get a fair and reasonable ROI to feed families, buy soccer shoes and send kids to college. This is another reason why UFOCs and other information should not be allowed to pre-qualified individuals, the information they create as a business plan ends up all over the place. What if the potential buyer builds a business plan based on UFOC data and then starts their own business? The FTC would say that is their right. My franchisees would be totally upset that I allowed data to help a future competitor of theirs into their market. I have a responsibility to that consumer too. He is a real consumer, he is a current franchisee and it is franchisors job to see that they are able to achieve up to their ability to follow the system.

Since a business plan is not necessary until you are sure you want a franchise and are qualified and accepted by the franchisor as a qualified franchise buyer, the business plan debate and justification for an early disclosure is invalid. There is sufficient competition in franchising and a potential franchise buyer, who on average I am told by FranchiseOpportunities.com, looks into 15 or more franchises before deciding which one is most suited to their lifestyle, needs for cash flow and amount of financial where with all available. So therefore we can see that until they narrow their selection there is no need for them to have fifteen UFOCs to make fifteen business plans, which no one would ever do who was not a doctoral student. And alas the doctoral student would not be a real buyer anyway so no franchisor should be obligated to give them such information based on this business plan debate. Now if the potential franchise buyer had accurate and comparable information then of course this business plan point could be valid. Not actually a business plan as much as a "T" on a piece of legal paper of the pluses and minuses of each franchise being considered. But it would have to be in a standardized format on all web sites such as I previously discussed. A person not familiar with UFOCs like most all real franchise buyers would have a problem going through all the information trying to find the comparable data. And by then his coffee table next to the couch would buckle from the weight of 15 UFOCs when the house cat sat on it, just ask Robin Glen Day out of California.

The SBA is another organization that does not understand franchising. You may recall a few years ago the SBA contracted with FranNet to put all UFOCs on the Internet for streamlining SBA loans of their preferred lenders. First thing FranNet did was send a sales letter to all franchisors telling them they could now get other franchisor's and competitor's UFOCs for a fee. In addition they went through all the UFOCs submitted and did studies you could buy too. This illustrates my point regarding the competitive intelligence and proprietary information being given away due to the lack of understanding of the competition in franchising and different market sectors were the franchisor operates. Obviously FranNet with their coup from the SBA contract would never offer such a service if it were not a desire of the competitive market place to get the information. Yes, I ordered my competitions documents and yes it helps me beat them in the market place. Yes it is unfair, but they are also doing it to me. No, we did not after that point bother dealing with the SBA. And yes we turn away most applicants who answer our question of "where will you get the money to buy this franchise?" on our questionnaire; "from a small business or SBA loan." As soon as the franchise buyer submits the documents as part of the loan package there is a possibility of it becoming public record. The UFOCs contain so much information, such a P and L, Balance Sheet, experience, number of projected units, location of existing units, etc, etc that it is in essence the same or better than going through a competitor's office files or trash. This over disclosure promotes Machiavellian tendencies from competition and condemns the noblest of franchisors to spend to guard against it. We did have a preferred SBA lender forward information about our franchise to a friend of his from the Rotary Club who was a strong competitor and owned a carwash in that region. The competitor then contacted us for more information about what we were doing. Apparently the FTC, SBA, and SBDC do not understand the competitive nature of business in America and freely helps competitors under the guise of helping consumers. Whether or not they realize it. Many times the competitor turns out to be the actual agency or organization. Franchisors must be careful to not give away proprietary information otherwise it is of detriment to their system and could hurt the very franchisees they have enlisted under their wings. These current franchisees and I cannot emphasize this enough are also consumers. They are real consumers, unlike those inquiries which are 70% un financially qualified and 20% competitors.

11.) Public Vs Private Company Required Disclosures.

There are many reasons why people run private companies and forgo the riches normally or previously associated with an IPO. For instance in my company, I decided to do it the hard way and therefore keep 100% of my company. I also chose this strategy so as to keep the information associated with my 25 years of hard work and mistakes that I built out of my business model secret. I intend to go all the way. It is much harder and riskier to do it this way due to the possibility of a much larger and more well financed competitor coming along and copying my system and expanding faster than I due to their organizational size and business contacts. With greater amounts of money a competitor could have easily in the beginning have wiped us out by advertising and selling franchises in the territories we were about to enter. With our knowledge and not having to go through all the prototypes,

hard knocks experience and proprietary information they could have done it quicker. Now that we have come this far it would be difficult even with 50 million dollars to compete with us in our markets and the mobile car wash industry. Even at 100 million I would still bet on our team. I had to work harder than everyone else and eat Top Ramen many days. Even go without sleep many nights to get all the work done that was required, much of which was unnecessary to actual operations, but was imposed by governmental agencies like the FTC. I am certain this level of hard work and sacrifice is what killed Ray Kroc, Dave Thomas and Sam Walton prematurely. Now that I have got this far and not out of the woods by any means, I see that the newest proposed disclosure laws to be enacted. You want to have me give all my secrets and all my hard work to any body I talk to, send an email to or shoot off a fax to without me or my staff knowing who these people really are? My god have you ever worked 17 hours a day, 7 days a week and skipped sleep every other night every other week? I have for about four years now without days off or summer vacations in the Hamptons or winter excursions to Boca Raton FL. Have you ever tried to run a franchise business and still comply with all your rules and the rules of all the other agencies such as EPA, OSHA, IRS and others? You want to level the playing field while I am still running up hill? For my competitors? Why? They do not work as hard or are not as smart. An Olympic athlete has to work harder to win, harder than anyone else. It is like you expect every little franchisor to be a Lance Armstrong and battle the cancer of government, the hills of France with competitors trying to make you crash along the way. Are only super stars allowed to be franchisors anymore? No matter what the FTC does I will survive. I never give up, however you maybe condemning the next up and coming. What if Ray Kroc gave up, Colonel Sanders, Rosenburg, Monahan, Thomas; these are just a few of the great names in franchising are saying to me and others who follow are not to exist, even as we sacrifice everything for the chance? Have you ever in your entire life ever had that much passion for anything. No, hell no, you sit behind those desks and push paper and think you understand the franchising industry. That just is not good enough anymore. I don't accept that, it is incorrect and an unacceptable answer. The franchising community deserves more, so does the consumer and so does America.

And what about the all these new comers, who do not know the reality of the game? What about all those new innovations we may never get because we were so quick to judge at the Federal Trade Commission. New innovations that can use the franchise model to grow and to supply the demand to those consumers who desire the services or products of the new technology, innovation or items that may improve quality of life for all Americans. Has it been so long ago that we forgot about the Singer Sewing Machine, it was companies like these that started it all. What has happened to America. I for one have had family members risk their lives in battle so we as Americans do not have to stand in line for potatoes or salute a swastika. I seriously doubt if you will be able to enact such a set of new burdensome rules based on garbage reasoning. But just the fact that I have to waste time to explain your own job to you at the FTC because of the passion I have for Free Enterprise, the American Dream and franchising proves the system is full of holes. Nobody at the FTC should be sitting around a table dreaming up new rules in the first place. Especially as we climb out of this hole called a recession, we do not need an extra backpack full of cannon balls. You should be looking at ways to incorporate new technologies for the betterment of all. Ways to streamline your own set of rules and to get

rid of the old rules that are no longer of any value, all those rules which have no purpose anymore. If you enact these new rules, and change the game plan on me and other smaller franchisors and I would have known this years ago my strategy would have been a lot different. I would have done an IPO three years ago and would have been able to move faster, accomplish more and all I would have had to give up is a percentage of my business. The same percentage of my business that I will not be able to achieve by being slowed down in the market place by these newest proposed rules. As a matter of fact I may have opted out of the franchise model and actually made more money in the process, ate at better restaurants, been able to help more people and not sacrificed my health along the way from sleep deprivation and truck stop food during my travels. The franchisors in this country have been wronged and we are taking the brunt of this economic recovery on our backs. A recession caused in part by the Justice Department.

I have been to all 48 continental states in the last five months. I am tired but I must persevere because that is what it takes, I cannot give up. I ask that the FTC walk the walk and work as hard as I do to make things right. Am I of the last entrepreneurs and watching the gates closing in on me. I better not be, this is The United States of America. I will make it through in time, but what about the rest. We are a dying breed, literally due to all the governmental restrictions forced on the franchising industry. I am not sure if there will be anymore Ray Krocs, Tom Monahans, Dave Thomases. All I know is that I hope to be one and will not quit till I get there even if it kills me, and it just may. I am very upset to the way I have been treated by the FTC, very upset at these potential rule changes and outraged that you are destroying all that is good in America. How is it that people who do not know anything about what it really takes to win in franchising, can sit in a room and make laws and rules against the greatest business model this world has ever known. Franchising. Our own government is set up similar to the franchising model and it has dominated modern culture for over 200 years and made us the greatest country on Earth. The only thing that will kill it is the government itself. The same thought process that permeates the FTC and many other agencies. I say walk a day in my shoes. It is not as easy as it looks. Do not destroy America with unnecessary rules in the middle of a potential recession recovery. Why do you attack the franchising industry that is the same industry and model that built this great nation and the same model, the only model, which can unite the world, feed all peoples of the Planet and stop terrorism and wars?

The potential FTC rules themselves will probably come and go and not be enacted. The travesty here is that they were even considered in the first place. That proves how out of touch government is with the reality of the market place. That is scary and many people from Thomas Jefferson to our current President, from JFK to Allen Greenspan have warned us about incessant bureaucracy. It was not more than a few months ago in Orlando that President Bush made comments about the SBA and their can of worms. I know the FTC hates the President and says he stole the election. Well, he is the President and we had better listen to what he is saying if we want economic prosperity too return to our nation. Still everyone talks about economic recovery in Washington, but little has changed there or anywhere else. Why does it take a guy who just washes cars, travels the country in a motor home setting up franchises to bring this to the forefront. Why is it that everyone is treating this like it is okay. Even the attorneys who think the FTC is full of crap are being

so polite and so cordial in all of this, as I read the letters and letters from the past public comments on proposed rule making changes I see such a wonderful professionalism. It is not deserved, some one has to call an ace an ace and a spade a spade. The FTC is way out there. Why can't we just have some one stand up and take the heat and tell it like it is? Why can't the FTC see what they are doing here, how every arbitrary rule made changes the game and negatively affects hundreds of other issues of much greater importance.

Even addressing these rules as if they were viable is an important issue. The rules the FTC proposes are not viable at all, they are criminal. They are nuts. They are hair brained and bordering insanity. You have got to be kidding me. You want real people who are busy to address these issues in a public forum? Why? To make everyone feel important? They are not issues worthy of comment except if we do not comment on them you might just enact them. I only wonder what your next crazy idea will be at the FTC. I looked at the proposed rules and laughed and then thought oh my god, are they serious. The answer being yes is a scary thought indeed.

12.) Call to Disband The FTC's Franchising Division.

I urge Senator Dick Arme and his staff to review seriously the important decision that lies ahead. How much should the FTC be downsized? We see by the introduction of this proposed rule that they have over stepped their usefulness in franchising, so perhaps that division should receive no funding and be immediately disbanded. I have an interesting case study and 2000 pages of proof of innocence of a recent action taken against my company by the FTC. It is really incredible to read considering the FTC moved to seize bank accounts based on competitor's complaints and declarations. The competition in the future does not appear to be coming from the marketplace. That competition is not too bothersome compared to the FTC. The new competition is agencies like the FTC against American business. And we are seeing exactly what happens now with all these layoffs. I am still trying to figure out why I as a consumer was damaged by Microsoft for receiving a free web browser. Last time I checked free was my favorite price. Who is the FTC to tell me the consumer of my own free will that I am wrong to want to buy Microsoft products?

A question you are probably wondering is can the franchising industry survive without the FTC? The question should be more like how much can the franchising industry thrive without the FTC on its backs. Why is it up to the franchising industry to stop the horse and why are you trying stop the horse anyway. Do you have something against horses?

I was quite concerned when I went to visit the FTC and discuss the case they filed against our company. We sat in a room and answered questions, before we started and after our meeting concluded of the investigators stood and was watching my rear end. Although I am from California and tend to let things like this go, I was offended as my wife was present. He was not a bad looking guy and said he was 26, but surely he would have no problem in Washington D.C. finding a date to suit his needs. I thought that was very inappropriate. Also I got to thinking that the name of my company is the Car Wash "GUYS," then I wondered how much fact had to do with the singling out our company as

an FTC target to prosecute. Or worse off how much of the name “GUYS’ in our brand name had to do with the prosecutor choosing us as his for next assignment. And how much of this fact has to do with the ongoing phone calls and harassment we keep getting. Is this a psychological stalking type mentality occurring? Should I just not worry about it since the FTC settled the case with our company and it is over, or should I be concerned that some one still likes me? This is a true story and I have a problem with any agency, which cannot put away personal issues like these and others to do their job. Is this the reality of the FTC, is it internally really this pathetic? I did not question anyone sexual preference nor should anyone question mine just because I am happily married. We should stick to the issues, without grandstanding. I am putting the FTC on notice of these issues as after this letter is read over all my suggestions to these proposed rule changes that they do not come back and target our company again. Although I bet they try. Individuals who give Public Comment when the FTC has solicited them should not be harassed for their sincere opinions in the form of a lawsuit against their companies. I have not said anything in this letter that I am not sincere about.

If this proposed rule making exercise costs \$250,000.00 of tax payers monies, we should have them less often. We could have used the funds we would have saved, by the wasteful tendencies of a runaway agency to strengthen franchising and small business. Forming a task force with teeth to cut red tape, revitalize American small business and help with ways to educate new entrants. We could enlist this task force to come up with new innovative ways to encourage small business such as:

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The New American Bombs Program

Business Opportunity Means Better Success

Objective: To provide a consistent, reliable and uniform source of small business financing that can be made available for distribution throughout the country. Help American’s achieve their American dream of starting or continuing to develop a small business with financial and business assistance through a coordinated and uniform system of small business loans. These notes will then be packaged and offered to the public and private markets as a bond type-investment.

Description: Uniform non-collateralized small business loan

Amount: Issued in loan amounts of \$50,000, \$100,000 and \$150,000 to the loan recipient. Packaged and offered to the public and private markets as an investment in denominations starting at either \$5,000 or \$25,000.

Duration: Durations of 5 to 10 years

Yield: Estimated at approximately 150% of the then current conforming GNMA notes

Additional Requirements: Attendance and passing of an approved vendor Certified Small Business Loan course before the processing and approval of a small business loan. This course must be taught in a class room setting and must be no less than 20 hours in duration.

Further Objectives: To provide a securitized vehicle that will allow American's to invest in the future of America. These small business notes (packaged and promoted like the popular GNMA securities) will have a low initial purchase amount and an attractive yield for investors who want to help build the future of America while also receiving an income from their investment. These small business loans will be made available throughout the country on a uniform, coordinated and equitable basis from non-government lending sources. This vehicle can add an immediate source of needed funds without relying on government programs. Institutions and companies can opt to join in providing funding for these small business loans. This program will lessen the reliance on extremely high interest rate lease and loan-shark type financing many small business owners must currently resort to for funding of their dreams. In addition the small business loan participants will receive hands-on class room instruction on topics of importance and necessity for the operation of a small business to further assist in the survival of their business venture. People, companies and institutions across America can have a simple, patriotic vehicle to help invest in their future and the future of our country.

.....

We should be investing in America's future and find ways for more people to start franchises and other independent small businesses, not tying the hands of Franchisors, who hold the key to jump starting small businesses, increasing employment and bringing the eminent economic recovery to fruition. Franchising promotes efficiency and sets the bar for competition and the consumer benefits from it. We should be turning towards the private sector and for answers, not to government agencies to dream up more rules and laws. **I find it interesting that anytime there is a problem or perceived problem some bonehead in government comes up with a solution. It is always the same. I propose we make a another new law, rule, code, permit, condition, resolution, clarification, tax, fee, fine, act, decree, bylaw, directive, ruling, guideline, decree, declaration, decision, resolution, license, authorization, sanction, authorization, policy, system, format, charge, bill, statue or any number of other things that in the end all mean excessive regulation to business.** And may I ask the simplest of questions? What does any of this have to do with flipping a hamburger, changing a muffler, washing a car, sending someone on vacation or cleaning some ones house? Because last time I checked that is what the franchising industry does for America.

Rules for the sake of making rules will not make the world perfect and excuse me for saying so but the garbage they teach to first year law students that free society only exists when there is a set of standards for law is BS. The Taliban in Afghanistan also had laws based on god knows what/who? The best law in the world is that which can be avoided, that never has to be made. I submit to the FTC to identify a real problem existing in

franchising that needs to be made into a rule that does not clarify a previous rule. **The wonderful thing about making rules in government is once you make the first one you have job security for the rest of your life, must be nice. These proposed rules are an unjustified “piling effect” of minutia.**

I look at the counterparts in other countries to the FTC. In those countries the agencies are there to spur on growth and economic development. Yet in our country, the greatest country in the world, our great agency, The Federal Trade Commission, spends its money and funding attacking American companies, stifling free enterprise and hurting consumer choice by enacting burdensome rules which border on restraint of trade and at minimum cause severe barriers to entry in so many industries that could hold possible economic opportunity to average Americans. There are adequate restrictions on franchising in place already to protect consumers. Over regulation hurts consumers and now the FTC wants to impose restrictions on franchisors protecting non-consumers, possible consumers and competitors. Why are we protecting the possibility of damage to a consumer that has not yet actually occurred and may never occur. You are not a damaged consumer if you did not buy a franchise. How could you be damaged as a consumer/investor if you never purchased anything? Well then why is the FTC attempting to enacting a rule to protect people who are not buying and anything or have not bought anything?

13.) Do Not Call Lists And Reality Checks.

How many franchisors use outbound telemarketing to sell franchises? None. If a franchisor buys a list from a B2B franchising web site and that web site solicits for people interested in franchising and that individual agrees to be placed on a list, then the prospect or potential franchise buyer at that point has given permission to be called by a franchisor meeting their criteria. If the B2B web site over sells such a list by selling it to too many franchisors, then of course the true problem there is a distribution situation from the sale of that list and should be taken up with the B2B franchising web site, not the entire franchising community.

As far as telephone hours, your proposed rule has language in it that would preclude a franchisor from answering his phone and discussing a sale of a franchise after 9 pm. What if I am in New York and the franchise buyer calls from Hawaii after he gets home from work? I in that case could not talk about a sale of a franchise only about Hula dancers and the impending Tsunami warning. What if they scheduled a time to talk at night or work a night shift? Our phones and my personal phone is on 24 hours a day and I answer it many times very late. I have had potential franchise buyers call me at 10 pm at night. If that is when they wish to call and I wish to work that hard, then you are telling me I cannot work past a certain hour? Why?

The language in your proposed “Do Not Call” rule would preclude me from telling a competitor who calls to “Go to Hell,” “FO” or other things when they call me and play games. I received several calls last week from a competitor in Reno, NV whom I told where to go and specifically asked him not to call. He had also called the prior month late

at night. The competitor can call to harass us in the nightly hours and this rule would preclude me from being blunt and precise to them.

We get calls in the middle of the night for washouts from truck drivers, a service our franchisees offer but at a time when the answering service or dispatch is not answering our phones anymore for call in service. Many of these customers know we are franchise since it says "Franchises Available" on all our truck wash-out brochures. These truck drivers are sick of the trucking industry, fighting with dispatchers and incessant DOT regulations preventing them from doing their job or making a profit as an independent truck driver. If you do not believe this call our newest franchisee in the Las Vegas, NV area. He left the trucking industry and has never been happier. These drivers may ask us about how our franchise works. Your rule would mean we could not talk to a night time caller about our business on the franchise level if they were a customer for washing service and asked to buy a franchise and called at midnight, or said to us call me back in a hour, I have to drop this load first. We have to do washouts in the middle of the night so they can load the truck so they can deliver food to the grocery store where the FTC employees shop. If that person is thinking of a franchise and asks us about it why couldn't we tell them? And just think, this truck driver works the graveyard shift. When exactly is he supposed to call? The world does not stop just because the FTC employees are at home asleep. There are logistical operations, flight operations, military operations, police men, fire men, janitors, operators, etc all still working on the exact opposite shift as you are. What do you think makes the world go around. Trains, planes, trucks, ships all work all night long to bring America what they needs, just like some franchise systems. Think of Jani King, Coverall, Uniclean, ServPro, MilliCare, ChemDry, Tower Cleaning Systems, Service Master? They have to man help lines at night too, all kinds of people may call in from security companies and police personal to building owners. Are these night-time workers all over our country not allowed to buy a franchise, stuck in zombie land forever? That's a fine how do you do? Especially considering the FTC hires out it's janitorial service. You have something against janitors too? Maybe these night working people want to quit what they perceive as a dead end night job. You perceive it that way judging from your proposed rule. Maybe they want to someday live on the hill in a gated community, maybe they want to be someone someday, maybe just maybe they are sick and tired of going to a job every single day of their life like you do at the FTC. Maybe they want a chance, just a chance at their American Dream. Maybe to them their American Dream just might possibly be a franchise business of their own. The kind of franchise that you as an FTC employee spend one-third of every dollar you make. Why not? It is a wonderful and viable alternative. Made possible by 1800 active franchisors who persevere through all the government red tape and rules.

Many times a franchise buyer will call late and think they will leave a message, that no one will be in that late. They probably do not understand what it takes to run a franchise system. We will answer the phone and they will say "oh I did not think anyone was there, I was going to leave a message." "We simply say is there anything we can help you with now or would you like to schedule a better time to talk?" Many times we will simply begin an abbreviated conversation and conclude it later. The customer (consumer) is always right. If they want to talk at 1 am, they should be allowed to. What if they work

night shift or they are Internet Insomniacs? Most web hits on franchising sites come in after the kids are in bed and the person has time to surf. Understand that these night birds are becoming more prevalent than you think since 9-11 and layoffs. If people sleep until noon they are liable to be up until 2 or 3 am. And what time zone are they on?

I had a Rabbi from Atlanta call me today. We had talked a month or two ago and he was interested in a franchise, but had to secure funding for the work truck. He is wanting to set up a franchise, which would also help in car wash fundraising for a Jewish Private Girls School, which he operates on the North East Side. We are going to wave franchise fees and donate royalties back to the school. It's good PR and it helps the school, why not? He has told me of the excellent success they have had raising fine and outstanding young women and some of their accomplishments later in life. He called at 5:30 PM tonight Arizona Time and we just had a time change so actually it was 6:30 PM, making it 9:30 PM his time. Before we started talking I asked him if he wished to wave his right to not have talk to me about business or a franchise due to the newest telemarketing rules being proposed by FTC. Now mind you he called us. I explained the newest rule and he agreed. He said he could not talk long he had to put kids in bed and asked if I could call him back later. Thinking of this rule I said; "No, why don't you call me when you are ready." Now mind you I am talking to a real Rabbi, and future associate/ franchise on a project for the betterment of his community and the World and telling him "NO, I cannot call you at the time you request." He agreed to call me saving me from embarrassment over the ridiculous FTC proposed telemarketing rule. The situation seemed really weird and bit ridiculous. We are both very busy. He runs a Jewish Private Girls School and is a Rabbi so he cannot always talk during the day. I run a franchise organization and this would be a special project for helping people. Extracurricular you might say. So here I am tonight telling a Rabbi who called me to work on a franchise fee waved endeavor to help his community and I have to tell him I cannot talk to him? Thank god I am not Jewish, because if I were my family would disown me over this one. That would definitely be something you would not do. Remember we had not talked in a month or so, so this would very well fall into your newest proposed telemarketing rule. Call me to verify and I will be glad to give you his number, this is a slice of real life. Of course you will have to call him in the evening to, like I said he is extremely busy.

I had a person call me at 9 pm their time and we talked about our franchise until just before midnight and they asked questions. Why wouldn't we answer? An interested party wanting to buy a franchise should be able to call anytime they want to. It is a choice of the seller to either set their hours at regular hours or extend them. The consumer should dictate when they want to call or be called, not the FTC. Why should the hard working franchisors be penalized because we are literally working twice as hard. If the other players cannot keep up, why make some of us back off? As a west coast franchisor our company gets up quite early to man the phones. 5 am CA is 8 am NY and most of FL. Under the currently proposed language we would be barred from discussing franchising with East Coast buyers when we are on the west coast until NY was starting lunch. That just does not work at all. Have you ever tried to call New York at lunch? Forget that question how about the FTC, it is a ghost town at 600 Pennsylvania Ave. during lunch.

I would also like to point out how many calls I get from potential franchise buyers that come in under blocked or unavailable caller ID. If such a person wanted me to put them on a "Do Not Call List" after hearing what I have to say, then number one; why did they call us in first place. Number two we do not do outgoing telemarketing so why should I even have a "Do Not Call List." Now I suppose if you adopt this rule we can make a "do not call list" if you want us too, but it will remain blank. Number three if someone asks us to put them on a 'Do Not call List" are they really a consumer or are they a competitor playing around. And if they are a competitor, then surely we will be putting down a fictitious name that they give us.

If there really is such a problem of telemarketing in franchising, which I doubt, then why not call up the offending parties and ask them to stop calling "Do Not Call Listed people." Or ask them to refrain from whatever it is they are doing that the FTC is offended by. That takes a simple phone call from the FTC to the franchisor in question, not a new rule or additional verbiage to an old rule. Then you will not need more rules. However I really doubt if this is an issue. It is probably a competitor filing a complaint with the FTC about another company. In which case the complaining party is not a consumer and therefore is not only not entitled to any protection from the FTC. The FTC should not take the complaint since they used deceptive practices to initiate the original inquiry. I doubt if any franchisors ever call numbers out of the blue. How many complaints have been made over "Do Not Call Lists" from real consumers about franchisor's sales calls in the history of the FTC's franchising division? I want this question to be answered before any rule is considered and I want it made public. I cannot comment on a proposed rule without knowing the full extent of the non-existent problem. Therefore formally request another 30 days to comment after these facts are revealed. I would like my answer in writing if denied and a copy of the denial for additional time sent to Senator Dick Armey's office.

I wish the Senators that review FTC efforts to review the true complaints leading the FTC come to the conclusion that there is a need for such a rule, and to verify each and every complaint if any before any final ruling or proposed change is made. Without such a checks and balances in FTC rule making procedures American Business and the state of our economy will not be safe. Such a shaky ground will not encourage economic growth through capital investment and therefore hurt our already slow road to recovery.

I would also like to point out that when an obvious non-consumer, a competitor or someone else who is not a real potential buyer calls a franchisor, the franchisor should be allowed to tell them where to go and hang up when they (the caller) cross the line of professionalism. If the potential buyer asks questions in a belligerent way and the franchisor is not interested in answering he should be allowed to immediately end discussions. If the potential franchise buyer calls back and tells us not to call them and to put them on a do not call list, they should be required to tell us their name and phone number to put on a list, otherwise who are they? Without a name or more information whose name and number do you put on the list anyway?

Potential buyers should have do not call lists and when a franchisor says we are not interested in selling them a franchise or discussing our franchise with them, they should

respect that and not bother us anymore. They should not call back, harass our personell or use their spouse to try to secure additional information or contact friends to inquire on their behalf. Apparently when you tell someone not to call back they think it is a challenge and the reverse psychology gets the best of them. We should not have to talk to consumers who do not qualify or sound like nincompoops. I remember reading about The Body Shop Company and how they just could not get rid of people who wanted to open stores. Our company has the same problem and we are getting sick of it. We are ultra careful of who is allowed to be in our company and we only offer our franchises to approved buyers. If a consumer or a government regulator purporting to be a consumer or a competitor trying to suck information calls a franchisor, then they should be able to tell them not to call back ever and they should follow that request. When the FTC is put on notice in a settlement not to call a franchisor and to only talk to their attorney, they should never be allowed to call that franchisor in an attempt to harass them or try to entrap them.

When FTC investigators call up and harass franchisors and attempt to entrap them by way of voice tape recorders, franchisors should be able to say do not call us anymore and they should stop. Why does the FTC always make these calls during the end of the week when any good franchisor knows that the serious calls come from people in the beginning of the week? Why does the FTC like Thursdays so much? When asked to stop the FTC should respect that. Not wait a couple of days and try again under a different name or go to the franchisor's website and fill out a form. They should also not encourage consumer watch groups to call franchisors in their place to try to entrap them. They should also be barred from giving out phone numbers of franchisors to other agencies involved in enforcement. Putting a franchisor's name on a list to all registration states, governments and consumer groups to call to try to entrap them into giving an earnings claim or other violation should also be barred. I am hereby putting the FTC on another notice to not give our companies name out, to not call us, harass us or have their employees give our name out to consumer rights groups as possible violators. I also believe that any employee that believes they can go above and beyond the call of duty and take it upon their selves to try to entrap a franchisors sales team ought to be internally investigated and charged with abuse of power. Any employee of the FTC who posts negative information against a franchisor on any BBS on any web site after the FTC settles a case with a franchisor should be fired. Any FTC employee who has friends who own consumer oriented web sites ought to not discuss a case after it is settled and if they entice someone who owns such a web site to put up content about a franchisor that is negative, they should be internally reprimanded. Any employee of the FTC who starts a dialog with a franchisor outside of his normal duties at work, on their free time, to pretend to be a franchise buyer in order to re-open a case should be charged with abuse of power and be fired and if they are an attorney should be debarred. This abuse has to stop. I can tell you I have been getting bogus calls from people claiming to be franchise buyers for over a year now at a rate of 2 to 3 per week. This harassment needs to stop. These phone calls are made under deceptive and false pretence and every rule that is to be applied to any franchisor should also be applied to the enforcement agency making such a rule. The FTC needs more checks and balances. The agency and it's employees should not be above the law. The Justice Department of the United States of America should be held accountable, just like the executive branch of government has been during the past seven presidencies. The legislative branch is held in

check and so should the Judicial. That is what they taught us in grade school, that is what we were promised and that is what we expect. For the people and by the people, get use to it or find another job. I also have received in the past many false inquiries from the FTC pretending to be franchise buyers and I have asked them to stop. One such caller used my ex-wife's new married name. The phone calls whether from the FTC or other organizations continue to this day. Having talked to at least a thousand prospective buyers personally over the last four years, it is rather obvious when you get a ringer. I am tired of playing games with this telemarketing harassment, and wish it to stop. I believe this is a waste of time and I feel damaging to a franchisor to be harassed in this way. If the FTC loses a case or settles for no penalty, they should stick to that decision and go onto the next item at hand, not hold a grudge and continue calls. And lastly the FTC should not go after companies or individuals who exercise their right to free speech in an open forum or public comment to a potential rule that is damaging to the that person's life work or companies future in franchising. Such a person as are all persons who go out of their way to comment on rules changes do so for the betterment of all, such people are what make our country strong. We must continue to refine our systems and work together. Some criticism is hard to take, but in the end it can be most beneficial to the future. Everything should be discussed and absolutely no issue off limits. If we fool ourselves everyone losers and we waste time and lose creativity and innovation in the market place. That is one thing we cannot afford to do.

Franchise systems should not call their competitors and pretend to be franchise buyers. When a competitor is caught and is asked to stop, they should not continue to call back under a different disguise using additional false pretence. The FTC should look into such behavior if it continues.

I see two sides of this issue and I only see one side being enforced. And looking at this rule I see only one outcome. If you have gotten this far in this letter you will have to agree.

14.) Misconceptions Of The Value Of Disclosures in Franchising.

I know when I personally meet a franchise buyer whose application form is approved and hand them a UFOC with attachments and watch their jaw drop and then their hand drop when they clutch it in their hands (due to the weight of the 155 pages), I see a blank look. I apologize every time for my unreasonable government and the US legal system for the rules. I tell them it is to protect them and put up my shoulders and they usually say something like "Yah Right." A franchise buyer who wants to buy a franchise is not going to read and expect to understand every clause, nor are most franchisors going to enforce every clause. You can't, you would not have any franchisees left. There are too many laws in franchising and too much regulation. Many times a franchise buyer will ask me, "What the hell does this have to do with washing cars?" I really cannot answer what I really think, I would launch into a tirade that would last four hours full of more examples than I care to write in this brief letter. I could write a book after all we have only discussed three proposed rule changes.

The fact is that we are a mobile car wash franchise for the most part and that is a relatively easy and simple business. As much as the professionals care to argue to the contrary, all these laws just are not needed. Neither is all this regulation and surely not anymore than already exists. You can sit and argue why the rules and all the laws are necessary, but you will never convince myself or franchise buyer of it. Has anyone stepped away from the box long enough to see how absurd this is? Are we all so engulfed in the words of the statues and rules that we cannot see what we are doing. Forcing some businesses into the franchising model that should not be there, forcing the square peg where it does not fit. Half the time it appears we have lost site of the peg and it has found itself in a place where the sun don't shine. Thank you for keeping it safe for us, but really the FTC does not need to go that far. There are enough rules, and rules about rules and findings about rules, and opinions about rules. We should tread lightly, before we make more rules. We should look at all the consequences of the rules we make and try to find fault with the rules we already have. The FTC can spend time debating which rules to axe rather than which rules to enact. This will definitely keep them busy, and it puts them in the distinct position of being part of the solution instead of the problem.

The consumer does not really want any more barriers to buying a franchise. They do not like the 10-day waiting period which ends up half a month with holidays. They do not want to go through a long sales process. They want instant gratification and they want to start their new career/business and embark on their new chosen lifestyle. All these regulations have complicated the issue and made it tougher to buy franchises, all to the frustration of the consumer. Tell me did anyone ever take a survey of the sales process and large documents of existing franchisees and ask them what they think of the whole mess, which has been created to supposedly help them? NO, of course not. Yet, I cannot think of a franchisor, which does not constantly survey their end users of the franchised outlet for the desires and events leading to a sale of goods or services and on all those surveys they always ask the same things. Did you feel that all your questions were answered, were you happy with the buying process, were your needs met, etc. Why doesn't the FTC ask real franchise owners what they think of all the paperwork, large documents and rules. Simply taking the information from lobbyist groups of franchisee advocate rabble-rousers will not do it. Taking Internet complaints will not do it. Ask the actual franchisees already in the systems, the good franchisees, which follow the system. By making more rules you are actually hurting the franchisees, lengthening the documents. This causes new case law, more stipulations and boiler-plate phrases all adding to the length and complexity of the documents, agreements and buying process. Thus causing another law or rule to follow after circumstances unanticipated show their heads over issues of previous rules. And would you look at all this has created now? Wheeewwweee?

15.) Conclusion And Thoughts For The Future

If you really feel that these new rules will solve something then make them in a way that they can be universal and simplified. Review this letter with regards to FTC-EZ forms for Internet Use. Dump the "Do not call list" idea. Laugh along with the content of this letter,

but understand and see the problems from both sides. Move towards solutions, even if they take you all the way back to the drawing board. Practice what you preach. And above all step back and look at the whole picture and see how absurd all this has really become. Oh and before you condemn the franchisors why not look at the changing world of the consumer attitude, buying behavior and their endeavors during the sales process. Realize that it is a highly competitive business world out there and we are getting more competition from abroad every day, and many of these new foreign entrants to our markets are much more Machiavellian than we are in the States.

I personally do not believe any of these proposed rules are necessary. It would be “nice” if all franchisors had something on their web sites for easy comparison for consumers. I think the industry is up for some guidance on that issue with some great advise to help it along. I do not believe it should be mandatory. It would be a much better test to see if the Franchise Industry can fix and/or address these issues to help along change. That would be an FTC and Industry move that would revolutionize the process and usher in a new beginning of things to come. Franchising is the future. This is no time to impede it. Don’t destroy all we have built in franchising. This industry is filled with great people both past and present. It is filled with great companies who have made it among their main objectives to deliver the American Dream to those who are dedicated and willing to give there all in a business of their own.

I am Lance Winslow, Thanks for listening.

Sincerely,

Lance Winslow
Founder
WashGuy Systems